

FIFTY-EIGHTH DAY

MORNING SESSION

Senate Chamber, Olympia, Tuesday, March 11, 2008

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Haugen Keiser, Kline, Pflug, Rasmussen, Regala and Sheldon.

The Sergeant at Arms Color Guard consisting of Pages Maranda McGinnis and David Newsom, presented the Colors. Senator Shin offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Marr moved that Gubernatorial Appointment No. 9356, Sasha Sleiman, as a member of the Higher Education Coordinating Board, be confirmed.

Senator Marr spoke in favor of the motion.

MOTION

On motion of Senator Hobbs, Senators Haugen, Keiser and Regala were excused.

MOTION

On motion of Senator Brandland, Senator Pflug was excused.

APPOINTMENT OF SASHA SLEIMAN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9356, Sasha Sleiman as a member of the Higher Education Coordinating Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9356, Sasha Sleiman as a member of the Higher Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 3; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Roach, Rockefeller, Schoesler, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 42

Absent: Senators Kline, Rasmussen and Sheldon - 3

Excused: Senators Haugen, Keiser, Pflug and Regala - 4

Gubernatorial Appointment No. 9356, Sasha Sleiman, having received the constitutional majority was declared

confirmed as a member of the Higher Education Coordinating Board.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Jacobsen moved that Gubernatorial Appointment No. 9339, George Orr, as a member of the Fish and Wildlife Commission, be confirmed.

Senators Jacobsen, Morton, McCaslin, Prentice and Schoesler spoke in favor of passage of the motion.

POINT OF INQUIRY

Senator Roach: "Would Senator Jacobsen yield to a question? I think I saw in one of the bills that we had this year that there was a statement that you could only serve as Chair of the Fish & Wildlife Commission if you were a confirmed member of that Commission. I don't know what happened to that bill. I'm thinking it probably passed and that hardly anyone was confirmed. In other words, George Orr may be the only one with confirmation. In other words he would be, we would be saying 'yes' here to the new chairman of that Commission. Could you speak to that? How many are confirmed at this point?"

Senator Jacobsen: "At this point there's one confirmed and he will be leaving the Board at the end of the year. What's happened is, we get high centered on these. It's, I'll just put it real simple. The sports fishing don't want the people that like to commercial and the commercial supporters don't like the ones that like to sports fishing so you can't get anyone confirmed in this place. George is judicial and honest and everybody on the committee felt he was balanced and so he can pass here."

MOTION

On motion of Senator Marr, Senators Rasmussen, Regala and Sheldon were excused.

APPOINTMENT OF GEORGE ORR

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9339, George Orr as a member of the Fish and Wildlife Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9339, George Orr as a member of the Fish and Wildlife Commission and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schoesler, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 44

Excused: Senators Haugen, Keiser, Pflug, Regala and Sheldon - 5

Gubernatorial Appointment No. 9339, George Orr, having received the constitutional majority was declared confirmed as a member of the Fish and Wildlife Commission.

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MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6483, with the following amendment: 6483-S2 AMH ENGR H5730.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. FINDINGS AND INTENT. (1) The legislature recognizes that the benefits of local food production include stewardship of working agricultural lands; direct and indirect jobs in agricultural production, food processing, tourism, and support industries; energy conservation and greenhouse gas reductions; and increased food security through access to locally grown foods.

(2) The legislature finds there is a direct correlation between adequate nutrition and a child's development and school performance. Children who are hungry or malnourished are at risk of lower achievement in school.

(3) The legislature further finds that adequate nutrition is also necessary for the physical health of adults, and that some communities have limited access to healthy fruits and vegetables and quality meat and dairy products, a lack of which may lead to high rates of diet-related diseases.

(4) The legislature believes that expanding market opportunities for Washington farmers will preserve and strengthen local food production and increase the already significant contribution that agriculture makes to the state and local economies.

(5) The legislature finds that the state's existing procurement requirements and practices may inhibit the purchase of locally produced food.

(6) The legislature intends that the local farms-healthy kids act strengthen the connections between the state's agricultural industry and the state's food procurement procedures in order to expand local agricultural markets, improve the nutrition of children and other at-risk consumers, and have a positive impact on the environment.

NEW SECTION. Sec. 2. A new section is added to chapter 15.64 RCW to read as follows:

FARM-TO-SCHOOL PROGRAM. (1) A farm-to-school program is created within the department to facilitate increased procurement of Washington grown food by schools.

(2) The department, in consultation with the department of health, the office of the superintendent of public instruction, the department of general administration, and Washington State University, shall, in order of priority:

(a) Identify and develop policies and procedures to implement and evaluate the farm-to-school program, including coordinating with school procurement officials, buying cooperatives, and other appropriate organizations to develop uniform procurement procedures and materials, and practical recommendations to facilitate the purchase of Washington grown food by the common schools. These policies, procedures, and recommendations shall be made available to school districts to adopt at their discretion;

(b) Assist food producers, distributors, and food brokers to market Washington grown food to schools by informing them of food procurement opportunities, bid procedures, school purchasing criteria, and other requirements;

(c) Assist schools in connecting with local producers by informing them of the sources and availability of Washington grown food as well as the nutritional, environmental, and economic benefits of purchasing Washington grown food;

(d) Identify and recommend mechanisms that will increase the predictability of sales for producers and the adequacy of supply for purchasers;

(e) Identify and make available existing curricula, programs and publications that educate students on the nutritional, environmental, and economic benefits of preparing and consuming locally grown food;

(f) Support efforts to advance other farm-to-school connections such as school gardens or farms and farm visits; and

(g) As resources allow, seek additional funds to leverage state expenditures.

(3) The department in cooperation with the office of the superintendent of public instruction shall collect data on the activities conducted pursuant to this act and communicate such data biennially to the appropriate committees of the legislature beginning November 15, 2009. Data collected may include the numbers of schools and farms participating and any increases in the procurement of Washington grown food by the common schools.

(4) As used in this section, RCW 43.19.1905, 43.19.1906, 28A.335.190, and section 3 of this act, "Washington grown" means grown and packed or processed in Washington.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.235 RCW to read as follows:

WASHINGTON GROWN FRESH FRUIT AND VEGETABLE GRANTS. (1) The Washington grown fresh fruit and vegetable grant program is created in the office of the superintendent of public instruction. The purpose of the program is to facilitate consumption of Washington grown nutritious snacks in order to improve student health and expand the market for locally grown fresh produce.

(2) For purposes of this section, "fresh fruit and vegetables" includes perishable produce that is unprocessed, minimally processed, frozen, dried, or otherwise prepared, stored, and handled to maintain its fresh nature while providing convenience to the user. Producing minimally processed food involves cleaning, washing, cutting, or portioning.

(3) The program shall increase the number of school children with access to Washington grown fresh fruits and vegetables and shall be modeled after the United States department of agriculture fresh fruit and vegetable program, as described in 42 U.S.C. Sec. 1769(g). Schools receiving funds under the federal program are not eligible for grants under the Washington grown fresh fruit and vegetable grant program.

(4)(a) To the extent that state funds are appropriated specifically for this purpose, the office of the superintendent of public instruction shall solicit applications, conduct a competitive process, and make one or two-year grants to a mix of urban and rural schools to enable eligible schools to provide free Washington grown fresh fruits and vegetables throughout the school day.

(b) When evaluating applications and selecting grantees, the superintendent of public instruction shall consider and prioritize the following factors:

(i) The applicant's plan for ensuring the use of Washington grown fruits and vegetables within the program;

(ii) The applicant's plan for incorporating nutrition, agricultural stewardship education, and environmental education into the snack program;

(iii) The applicant's plan for establishing partnerships with state, local, and private entities to further the program's objectives, such as helping the school acquire, handle, store, and distribute Washington grown fresh fruits and vegetables.

(5)(a) The office of the superintendent of public instruction shall give funding priority to applicant schools with any of grades kindergarten through eight that: Participate in the national school lunch program and have fifty percent or more of their students eligible for free or reduced price meals under the federal national school lunch act, 42 U.S.C. Sec. 1751 et seq.

(b) If any funds remain after all eligible priority applicant schools have been awarded grants, the office of the superintendent of public instruction may award grants to applicant schools having less than fifty percent of the students eligible for free or reduced price meals.

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(6) The office of the superintendent of public instruction may adopt rules to carry out the grant program.

(7) With assistance from the Washington department of agriculture, the office of the superintendent of public instruction shall develop and track specific, quantifiable outcome measures of the grant program such as the number of students served by the program, the dollar value of purchases of Washington grown fruits and vegetables resulting from the program, and development of state, local, and private partnerships that extend beyond the cafeteria.

(8) As used in this section, "Washington grown" has the definition in section 2 of this act.

Sec. 4. RCW 43.19.1905 and 2002 c 299 s 5 and 2002 c 285 s 1 are each reenacted and amended to read as follows:

(1) The director of general administration shall establish overall state policy for compliance by all state agencies, including educational institutions, regarding the following purchasing and material control functions:

((1+)) (a) Development of a state commodity coding system, including common stock numbers for items maintained in stores for reissue;

((2)) (b) Determination where consolidations, closures, or additions of stores operated by state agencies and educational institutions should be initiated;

((3)) (c) Institution of standard criteria for determination of when and where an item in the state supply system should be stocked;

((4)) (d) Establishment of stock levels to be maintained in state stores, and formulation of standards for replenishment of stock;

((5)) (e) Formulation of an overall distribution and redistribution system for stock items which establishes sources of supply support for all agencies, including interagency supply support;

((6)) (f) Determination of what function data processing equipment, including remote terminals, shall perform in statewide purchasing and material control for improvement of service and promotion of economy;

((7)) (g) Standardization of records and forms used statewide for supply system activities involving purchasing, receiving, inspecting, storing, requisitioning, and issuing functions, including a standard notification form for state agencies to report cost-effective direct purchases, which shall at least identify the price of the goods as available through the division of purchasing, the price of the goods as available from the alternative source, the total savings, and the signature of the notifying agency's director or the director's designee;

((8)) (h) Screening of supplies, material, and equipment excess to the requirements of one agency for overall state need before sale as surplus;

((9)) (i) Establishment of warehouse operation and storage standards to achieve uniform, effective, and economical stores operations;

((10)) (j) Establishment of time limit standards for the issuing of material in store and for processing requisitions requiring purchase;

((11)) (k) Formulation of criteria for determining when centralized rather than decentralized purchasing shall be used to obtain maximum benefit of volume buying of identical or similar items, including procurement from federal supply sources;

((12)) (l) Development of criteria for use of leased, rather than state owned, warehouse space based on relative cost and accessibility;

((13)) (m) Institution of standard criteria for purchase and placement of state furnished materials, carpeting, furniture, fixtures, and nonfixed equipment, in newly constructed or renovated state buildings;

((14)) (n) Determination of how transportation costs incurred by the state for materials, supplies, services, and equipment can be reduced by improved freight and traffic coordination and control;

((15)) (o) Establishment of a formal certification program for state employees who are authorized to perform purchasing

functions as agents for the state under the provisions of chapter 43.19 RCW;

((16)) (p) Development of performance measures for the reduction of total overall expense for material, supplies, equipment, and services used each biennium by the state;

((17)) (q) Establishment of a standard system for all state organizations to record and report dollar savings and cost avoidance which are attributable to the establishment and implementation of improved purchasing and material control procedures;

((18)) (r) Development of procedures for mutual and voluntary cooperation between state agencies, including educational institutions, and political subdivisions for exchange of purchasing and material control services;

((19)) (s) Resolution of all other purchasing and material matters which require the establishment of overall statewide policy for effective and economical supply management;

((20)) (t) Development of guidelines and criteria for the purchase of vehicles, high gas mileage vehicles, alternate vehicle fuels and systems, equipment, and materials that reduce overall energy-related costs and energy use by the state, including investigations into all opportunities to aggregate the purchasing of clean technologies by state and local governments, and including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002);

((21)) (u) Development of goals for state use of recycled or environmentally preferable products through specifications for products and services, processes for requests for proposals and requests for qualifications, contractor selection, and contract negotiations;

(v) Development of food procurement procedures and materials that encourage and facilitate the purchase of Washington grown food by state agencies and institutions to the maximum extent practicable and consistent with international trade agreement commitments; and

(w) Development of policies requiring all food contracts to include a plan to maximize to the extent practicable and consistent with international trade agreement commitments the availability of Washington grown food purchased through the contract.

(2) As used in this section, "Washington grown" has the definition in section 2 of this act.

Sec. 5. RCW 43.19.1906 and 2006 c 363 s 1 are each amended to read as follows:

Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed, electronic, or web-based bid procedure, subject to RCW 43.19.1911, shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by RCW 43.19.190 through 43.19.1939. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 or under RCW 28B.10.029. However, formal sealed, electronic, or web-based competitive bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Purchases not exceeding thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management: PROVIDED, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the thirty-five thousand dollar bid limitation, or subsequent bid limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, to a lower dollar amount for purchases

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by individual state agencies if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. The agency shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. A record of competition for all such purchases from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit purposes. Purchases up to three thousand dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management division under RCW 43.41.310;

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is effective only when the state purchasing and material control director, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients;

(6) Purchases by universities for hospital operation or biomedical teaching or research purposes and by the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, made by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations;

(7) Purchases for resale by institutions of higher education to other than public agencies when such purchases are for the express purpose of supporting instructional programs and may best be executed through direct negotiation with one or more suppliers in order to meet the special needs of the institution;

(8) Purchases by institutions of higher education not exceeding thirty-five thousand dollars: PROVIDED, That for purchases between three thousand dollars and thirty-five thousand dollars quotations shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. For purchases between three thousand dollars and thirty-five thousand dollars, each institution of higher education shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. A record of competition for all such purchases made from three thousand to thirty-five thousand dollars shall be documented for audit purposes; ~~(and)~~

(9) Off-contract purchases of Washington grown food when such food is not available from Washington sources through an existing contract. However, Washington grown food purchased under this subsection must be of an equivalent or better quality than similar food available through the contract and be able to be paid from the agency's existing budget. This requirement also applies to purchases and contracts for purchases executed by state agencies, including institutions of higher education, under delegated authority granted in accordance with RCW 43.19.190 or under RCW 28B.10.029; and

(10) Negotiation of a contract by the department of transportation, valid until June 30, 2001, with registered tow

truck operators to provide roving service patrols in one or more Washington state patrol tow zones whereby those registered tow truck operators wishing to participate would cooperatively, with the department of transportation, develop a demonstration project upon terms and conditions negotiated by the parties.

Beginning on July 1, 1995, and on July 1st of each succeeding odd-numbered year, the dollar limits specified in this section shall be adjusted as follows: The office of financial management shall calculate such limits by adjusting the previous biennium's limits by the appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest one hundred dollars. However, the three thousand dollar figure in subsections (2) and (8) of this section may not be adjusted to exceed five thousand dollars.

As used in this section, "Washington grown" has the definition in section 2 of this act.

Sec. 6. RCW 28A.335.190 and 2005 c 346 s 2 and 2005 c 286 s 1 are each reenacted and amended to read as follows:

(1) When, in the opinion of the board of directors of any school district, the cost of any furniture, supplies, equipment, building, improvements, or repairs, or other work or purchases, except books, will equal or exceed the sum of fifty thousand dollars, complete plans and specifications for such work or purchases shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids and that specifications and other information may be examined at the office of the board or any other officially designated location: PROVIDED, That the board without giving such notice may make improvements or repairs to the property of the district through the shop and repair department of such district when the total of such improvements or repair does not exceed the sum of forty thousand dollars. The cost of any public work, improvement or repair for the purposes of this section shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. The bids shall be in writing and shall be opened and read in public on the date and in the place named in the notice and after being opened shall be filed for public inspection.

(2) Every purchase of furniture, equipment or supplies, except books, the cost of which is estimated to be in excess of forty thousand dollars, shall be on a competitive basis. The board of directors shall establish a procedure for securing telephone and/or written quotations for such purchases. Whenever the estimated cost is from forty thousand dollars up to seventy-five thousand dollars, the procedure shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal. Whenever the estimated cost is in excess of seventy-five thousand dollars, the public bidding process provided in subsection (1) of this section shall be followed.

(3) Any school district may purchase goods produced or provided in whole or in part from class II inmate work programs operated by the department of corrections pursuant to RCW 72.09.100, including but not limited to furniture, equipment, or supplies. School districts are encouraged to set as a target to contract, beginning after June 30, 2006, to purchase up to one percent of the total goods required by the school districts each year, goods produced or provided in whole or in part from class II inmate work programs operated by the department of corrections.

(4) Every building, improvement, repair or other public works project, the cost of which is estimated to be in excess of forty thousand dollars, shall be on a competitive bid process. Whenever the estimated cost of a public works project is one hundred thousand dollars or more, the public bidding process provided in subsection (1) of this section shall be followed unless the contract is let using the small works roster process in RCW 39.04.155 or under any other procedure authorized for school districts. One or more school districts may authorize an educational service district to establish and operate a small

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works roster for the school district under the provisions of RCW 39.04.155.

(5) The contract for the work or purchase shall be awarded to the lowest responsible bidder as defined in RCW 43.19.1911 but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. On any work or purchase the board shall provide bidding information to any qualified bidder or the bidder's agent, requesting it in person.

(6) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: PROVIDED, That an "emergency", for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action.

(7) This section does not apply to the direct purchase of school buses by school districts and educational services in accordance with RCW 28A.160.195.

(8) This section does not apply to the purchase of Washington grown food.

(9) At the discretion of the board, a school district may develop and implement policies and procedures to facilitate and maximize to the extent practicable, purchases of Washington grown food including, but not limited to, policies that permit a percentage price preference for the purpose of procuring Washington grown food.

(10) As used in this section, "Washington grown" has the definition in section 2 of this act.

(11) As used in this section, "price percentage preference" means the percent by which a responsive bid from a responsible bidder whose product is a Washington grown food may exceed the lowest responsive bid submitted by a responsible bidder whose product is not a Washington grown food.

NEW SECTION. Sec. 7. A new section is added to chapter 28A.320 RCW to read as follows:

(1) School districts may operate school gardens or farms, as appropriate, for the purpose of growing fruits and vegetables to be used for educational purposes and, where appropriate, to be offered to students through the district nutrition services meal and snack programs. All such foods used in the district's meal and snack programs shall meet appropriate safety standards.

(2) If a school operates a school garden or farm, students representing various student organizations, including but not limited to vocational programs such as the FFA and 4-H, shall be given the opportunity to be involved in the operation of a school garden or farm.

(3) When school gardens or farms are used to educate students about agricultural practices, students shall be afforded the opportunity to learn about both organic and conventional growing methods.

NEW SECTION. Sec. 8. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department shall adopt rules authorizing retail operation farms stores, owned and operated by a farmer and collocated with a site of agricultural production, to participate in the women, infant, and children farmers market nutrition program to provide locally grown, nutritious, unprepared fruits and vegetables to eligible program participants.

(2) Such rules must meet the provisions of 7 C.F.R. part 3016, uniform administrative requirements for grants and cooperative agreements to state and local governments, as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

NEW SECTION. Sec. 9. FARMERS MARKET TECHNOLOGY IMPROVEMENT PILOT PROGRAM. (1) If funds are provided for this specific purpose, the Washington state farmers market technology improvement pilot program is created in the department of social and health services to assist farmers markets develop the capability to accept wireless electronic payment cards, including electronic benefits transfers.

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The purpose of this program is to increase access to fresh fruits and vegetables and quality meat and dairy for all Washington residents and to increase the number of food stamp recipients using food stamp benefits through electronic benefits transfer at farmers markets.

(2) The department shall work with farmers markets and appropriate associations to ensure that the program serves a balance of rural and urban farmers markets.

(3) The department shall submit data on the electronic benefits transfer activities conducted pursuant to this section to the appropriate committees of the legislature each biennium beginning on November 15, 2009. Data collected may include information illustrating the demand for the technology and numbers of people using the technology for electronic benefits transfer.

(4) This section expires July 1, 2010.

NEW SECTION. Sec. 10. FARMERS TO FOOD BANKS PILOT PROGRAM. (1) If funds are provided for this specific purpose, the farmers to food banks pilot program is created. In implementing this program, the department of community, trade, and economic development shall conduct a request for proposals to select pilot site communities statewide. Any nonprofit entity qualified under section 501(c)(3) of the internal revenue code that is in the business of delivering social services may submit a proposal. No more than five pilot communities shall be selected based on the following:

(a) One pilot shall be designated in an urban area that has been negatively impacted by a mass transit infrastructure program, is ethnically diverse, and is located in a city with over five hundred thousand residents;

(b) At least one pilot must be located east of the crest of the Cascades; and

(c) At least one pilot must be in a rural county as defined in RCW 43.160.020.

(2) Funds shall be used in pilot communities for the food bank system to contract with local farmers to provide fruits, vegetables, dairy, and meat products for distribution to low-income people at local designated food banks.

(3) The department shall collect data on the activities conducted pursuant to this section and communicate biennially to the appropriate committees of the legislature beginning November 15, 2009. Data collected may include information illustrating the demand and numbers of people served.

(4) This section expires July 1, 2010.

NEW SECTION. Sec. 11. RCW 43.19.706 (Purchase of Washington agricultural products--Report to the legislature) and 2002 c 166 s 2 are each repealed.

NEW SECTION. Sec. 12. This act may be known and cited as the local farms-healthy kids act.

NEW SECTION. Sec. 13. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 14. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 15. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hatfield moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6483.

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The President declared the question before the Senate to be the motion by Senator Hatfield that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6483.

The motion by Senator Hatfield carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6483 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6483, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6483, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schoesler, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 44

Excused: Senators Haugen, Keiser, Pflug, Regala and Sheldon - 5

SECOND SUBSTITUTE SENATE BILL NO. 6483, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6556, with the following amendment: 6556-S AMH HCW H5818.2

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 28A.210 RCW to read as follows:

(1) The office of the superintendent of public instruction, in consultation with the department of health, shall develop anaphylactic policy guidelines for schools to prevent anaphylaxis and deal with medical emergencies resulting from it. The policy guidelines shall be developed with input from pediatricians, school nurses, other health care providers, parents of children with life-threatening allergies, school administrators, teachers, and food service directors.

The policy guidelines shall include, but need not be limited to:

(a) A procedure for each school to follow to develop a treatment plan including the responsibilities for school nurses and other appropriate school personnel responsible for responding to a student who may be experiencing anaphylaxis;

(b) The content of a training course for appropriate school personnel for preventing and responding to a student who may be experiencing anaphylaxis;

(c) A procedure for the development of an individualized emergency health care plan for children with food or other allergies that could result in anaphylaxis;

(d) A communication plan for the school to follow to gather and disseminate information on students with food or other allergies who may experience anaphylaxis;

(e) Strategies for reduction of the risk of exposure to anaphylactic causative agents including food and other allergens.

(2) For the purpose of this section "anaphylaxis" means a severe allergic and life-threatening reaction that is a collection

of symptoms, which may include breathing difficulties and a drop in blood pressure or shock.

(3)(a) By October 15, 2008, the superintendent of public instruction shall report to the select interim legislative task force on comprehensive school health reform created in section 6, chapter 5, Laws of 2007, on the following:

(i) The implementation within school districts of the 2008 guidelines for care of students with life-threatening food allergies developed by the superintendent pursuant to section 501, chapter 522, Laws of 2007, including a review of policies developed by the school districts, the training provided to school personnel, and plans for follow-up monitoring of policy implementation; and

(ii) Recommendations on requirements for effectively implementing the school anaphylactic policy guidelines developed under this section.

(b) By March 31, 2009, the superintendent of public instruction shall report policy guidelines to the appropriate committees of the legislature and to school districts for the districts to use to develop and adopt their policies.

(4) By September 1, 2009, each school district shall use the guidelines developed under subsection (1) of this section to develop and adopt a school district policy for each school in the district to follow to assist schools to prevent anaphylaxis."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Honeyford moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6556.
Senator Honeyford spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Honeyford that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6556.

The motion by Senator Honeyford carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6556 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6556, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6556, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schoesler, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 44

Excused: Senators Haugen, Keiser, Pflug, Regala and Sheldon - 5

SUBSTITUTE SENATE BILL NO. 6556, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

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The House has passed SUBSTITUTE SENATE BILL NO. 6583, with the following amendment: 6583-S AMH ENGR H5950.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.09.510 and 2007 c 315 s 1 are each amended to read as follows:

(1) Medical assistance may be provided in accordance with eligibility requirements established by the department, as defined in the social security Title XIX state plan for mandatory categorically needy persons and:

((+)) (a) Individuals who would be eligible for cash assistance except for their institutional status;

((+)) (b) Individuals who are under twenty-one years of age, who would be eligible for medicaid, but do not qualify as dependent children and who are in ((+)) (i) foster care, ((+)) (ii) subsidized adoption, ((+)) (iii) a nursing facility or an intermediate care facility for persons who are mentally retarded, or ((+)) (iv) inpatient psychiatric facilities;

((+)) (c) Individuals who:

((+)) (i) Are under twenty-one years of age;

((+)) (ii) On or after July 22, 2007, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state; and

((+)) (iii) On their eighteenth birthday, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state;

((+)) (d) Persons who are aged, blind, or disabled who:

((+)) (i) Receive only a state supplement, or ((+)) (ii) would not be eligible for cash assistance if they were not institutionalized;

((+)) (e) Categorically eligible individuals who meet the income and resource requirements of the cash assistance programs;

((+)) (f) Individuals who are enrolled in managed health care systems, who have otherwise lost eligibility for medical assistance, but who have not completed a current six-month enrollment in a managed health care system, and who are eligible for federal financial participation under Title XIX of the social security act;

((+)) (g) Children and pregnant women allowed by federal statute for whom funding is appropriated;

((+)) (h) Working individuals with disabilities authorized under section 1902(a)(10)(A)(ii) of the social security act for whom funding is appropriated;

((+)) (i) Other individuals eligible for medical services under RCW 74.09.035 and 74.09.700 for whom federal financial participation is available under Title XIX of the social security act;

((+)) (j) Persons allowed by section 1931 of the social security act for whom funding is appropriated; and

((+)) (k) Women who: ((+)) (i) Are under sixty-five years of age; ((+)) (ii) have been screened for breast and cervical cancer under the national breast and cervical cancer early detection program administered by the department of health or tribal entity and have been identified as needing treatment for breast or cervical cancer; and ((+)) (iii) are not otherwise covered by health insurance. Medical assistance provided under this subsection (1)(k) is limited to the period during which the woman requires treatment for breast or cervical cancer, and is subject to any conditions or limitations specified in the omnibus appropriations act.

(2) To the extent permitted under federal law, the department shall set the categorically needy income level for adults who are sixty-five years of age or older, blind, or disabled, at eighty percent of the federal poverty level as adjusted annually beginning July 1, 2009. As used in this section, "federal poverty level" refers to the poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. Sec. 9902(2).

Sec. 2. RCW 74.09.530 and 2007 c 315 s 2 are each amended to read as follows:

(1) The amount and nature of medical assistance and the determination of eligibility of recipients for medical assistance

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shall be the responsibility of the department of social and health services. The department shall establish reasonable standards of assistance and resource and income exemptions which shall be consistent with the provisions of the Social Security Act and with the regulations of the secretary of health, education and welfare for determining eligibility of individuals for medical assistance and the extent of such assistance to the extent that funds are available from the state and federal government. The department shall not consider resources in determining continuing eligibility for recipients eligible under section 1931 of the social security act.

(2) Individuals eligible for medical assistance under RCW 74.09.510((+)) (1)(c) shall be transitioned into coverage under that subsection immediately upon their termination from coverage under RCW 74.09.510((+)) (1)(b)(i). The department shall use income eligibility standards and eligibility determinations applicable to children placed in foster care. The department, in consultation with the health care authority, shall provide information regarding basic health plan enrollment and shall offer assistance with the application and enrollment process to individuals covered under RCW 74.09.510((+)) (1)(c) who are approaching their twenty-first birthday.

NEW SECTION. Sec. 3. The department of social and health services shall prepare a fiscal analysis of the increases in the medicaid categorically needy income level to eighty percent of the federal poverty level as described in RCW 74.09.510. In developing the fiscal analysis, the department shall present both costs and cost offsets related to continuous access to health services including: Per capita cost reductions that resulted from current medically needy clients having access to continuous coverage through the categorically needy program; any reductions in the number of clients receiving long-term care services; the impact on department staffing needs, including savings associated with reduced medically needy caseloads; shifts in enrollment from the Washington basic health plan to medicaid coverage; and the impact on regional support networks, including additional medicaid revenues, reduced demand for nonmedicaid funded services, and changes in utilization of emergency room and hospital services. The department shall submit the analysis to the governor and the health policy and fiscal committees of the legislature by November 1, 2010.

Sec. 4. RCW 48.41.100 and 2007 c 259 s 30 are each amended to read as follows:

(1) The following persons who are residents of this state are eligible for pool coverage:

(a) Any person who provides evidence of a carrier's decision not to accept him or her for enrollment in an individual health benefit plan as defined in RCW 48.43.005 based upon, and within ninety days of the receipt of, the results of the standard health questionnaire designated by the board and administered by health carriers under RCW 48.43.018;

(b) Any person who continues to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator pursuant to subsection (3) of this section;

(c) Any person who resides in a county of the state where no carrier or insurer eligible under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool, and who makes direct application to the pool; and

(d) Any medicare eligible person upon providing evidence of rejection for medical reasons, a requirement of restrictive riders, an up-rated premium, or a preexisting conditions limitation on a medicare supplemental insurance policy under chapter 48.66 RCW, the effect of which is to substantially reduce coverage from that received by a person considered a standard risk by at least one member within six months of the date of application.

(2) The following persons are not eligible for coverage by the pool:

(a) Any person having terminated coverage in the pool unless (i) twelve months have lapsed since termination, or (ii) that person can show continuous other coverage which has been

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involuntarily terminated for any reason other than nonpayment of premiums. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(b) Any person on whose behalf the pool has paid out two million dollars in benefits;

(c) Inmates of public institutions, and those persons (~~whose benefits are duplicated under public programs~~) who become eligible for medical assistance after June 30, 2008, as defined in RCW 74.09.010. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(d) Any person who resides in a county of the state where any carrier or insurer regulated under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool and who does not qualify for pool coverage based upon the results of the standard health questionnaire, or pursuant to subsection (1)(d) of this section.

(3) When a carrier or insurer regulated under chapter 48.15 RCW begins to offer an individual health benefit plan in a county where no carrier had been offering an individual health benefit plan:

(a) If the health benefit plan offered is other than a catastrophic health plan as defined in RCW 48.43.005, any person enrolled in a pool plan pursuant to subsection (1)(c) of this section in that county shall no longer be eligible for coverage under that plan pursuant to subsection (1)(c) of this section, but may continue to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator. The pool administrator shall offer to administer the questionnaire to each person no longer eligible for coverage under subsection (1)(c) of this section within thirty days of determining that he or she is no longer eligible;

(b) Losing eligibility for pool coverage under this subsection (3) does not affect a person's eligibility for pool coverage under subsection (1)(a), (b), or (d) of this section; and

(c) The pool administrator shall provide written notice to any person who is no longer eligible for coverage under a pool plan under this subsection (3) within thirty days of the administrator's determination that the person is no longer eligible. The notice shall: (i) Indicate that coverage under the plan will cease ninety days from the date that the notice is dated; (ii) describe any other coverage options, either in or outside of the pool, available to the person; (iii) describe the procedures for the administration of the standard health questionnaire to determine the person's continued eligibility for coverage under subsection (1)(b) of this section; and (iv) describe the enrollment process for the available options outside of the pool.

(4) The board shall ensure that an independent analysis of the eligibility standards for the pool coverage is conducted, including examining the eight percent eligibility threshold, eligibility for medicaid enrollees and other publicly sponsored enrollees, and the impacts on the pool and the state budget. The board shall report the findings to the legislature by December 1, 2007.

NEW SECTION. Sec. 5. This act takes effect July 1, 2009, if specific funding for purposes of this act, referencing this act by bill or chapter number, is provided by June 30, 2009, in the omnibus operating appropriations act. If funding is not so provided, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Brandland moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6583.

Senator Brandland spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senator Keiser was excused.

The President declared the question before the Senate to be the motion by Senator Brandland that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6583.

The motion by Senator Brandland carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6583 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6583, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6583, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schoesler, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Keiser, Pflug, Regala and Sheldon - 4
SUBSTITUTE SENATE BILL NO. 6583, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6722, with the following amendment: 6722 AMH APP H5849.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 70.105D RCW to read as follows:

(1) The cleanup settlement account is created in the state treasury. The account is not intended to replace the state toxics control account established under RCW 70.105D.070. All receipts from the sources identified in subsection (2) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as identified in subsection (4) of this section.

(2) The following receipts must be deposited into the cleanup settlement account:

(a) Receipts from settlements or court orders that direct payment to the account and resolve a person's liability or potential liability under this chapter for either or both of the following:

(i) Conducting future remedial action at a specific facility, if it is not feasible to require the person to conduct the remedial action based on the person's financial insolvency, limited ability to pay, or insignificant contribution under RCW 70.105D.040(4)(a);

(ii) Assessing or addressing the injury to natural resources caused by the release of a hazardous substance from a specific facility; and

(b) Receipts from investment of the moneys in the account.

(3) If a settlement or court order does not direct payment of receipts described in subsection (2)(a) of this section into the cleanup settlement account, then the receipts from any payment

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to the state must be deposited into the state toxics control account.

(4) Expenditures from the cleanup settlement account may only be used to conduct remedial actions at the specific facility or to assess or address the injury to natural resources caused by the release of hazardous substances from that facility for which the moneys were deposited in the account. Conducting remedial actions or assessing or addressing injury to natural resources includes direct expenditures and indirect expenditures such as department oversight costs.

(5) The department shall track moneys received, interest earned, and moneys expended separately for each facility.

(6) After the department determines that all remedial actions at a specific facility, and all actions assessing or addressing injury to natural resources caused by the release of hazardous substances from that facility, are completed, including payment of all related costs, any moneys remaining for the specific facility must be transferred to the state toxics control account established under RCW 70.105D.070.

(7) The department shall provide the office of financial management and the fiscal committees of the legislature with a report by October 31st of each year regarding the activity within the cleanup settlement account during the previous fiscal year.

Sec. 2. RCW 43.84.092 and 2007 c 514 s 3 and 2007 c 356 s 9 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the

drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the emergency reserve fund, the energy freedom account, The Evergreen State College capital projects account, the federal forest revolving account, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high-occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the real estate appraiser commission account, the regional mobility grant program account, the resource management cost account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond

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retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 3. RCW 43.84.092 and 2007 c 514 s 3, 2007 c 484 s 4, and 2007 c 356 s 9 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, The Evergreen State College capital projects account, the federal forest revolving account, the freight congestion relief account, the

freight mobility investment account, the freight mobility multimodal account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high-occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the real estate appraiser commission account, the regional mobility grant program account, the resource management cost account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the

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special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 4. RCW 43.84.092 and 2007 c 514 s 3, 2007 c 513 s 1, 2007 c 484 s 4, and 2007 c 356 s 9 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the health services account, the public health services account, the

health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high-occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the safety and education account, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

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NEW SECTION. Sec. 5. (1) Section 2 of this act expires July 1, 2008.

(2) Section 3 of this act expires July 1, 2009.

NEW SECTION. Sec. 6. (1) Section 3 of this act takes effect July 1, 2008.

(2) Section 4 of this act takes effect July 1, 2009."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Senate Bill No. 6722.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Senate Bill No. 6722.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6722 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6722, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6722, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schoesler, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Keiser, Regala and Sheldon - 3

SENATE BILL NO. 6722, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6809, with the following amendment: 6809-S.E AMH HUNT MITC 268

On page 2, beginning on line 25, after "period," strike all material through "act" on line 27 and insert "the working families' tax exemption authorized under this section shall be approved by the legislature in the state omnibus appropriations act before persons may claim the exemption during the fiscal period"

On page 3, after line 26, insert the following:

(8) The department shall limit its costs for the exemption program to the initial start-up costs to implement the program. The state omnibus appropriations act shall specify funding to be used for the ongoing administrative costs of the program. These ongoing administrative costs include, but are not limited to, costs for: the processing of internet and mail applications, verification of application claims, compliance and collections, additional full-time employees at the department's call center, processing warrants, updating printed materials and web

information, media advertising, and support and maintenance of computer systems."
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6809.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6809.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6809 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6809, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6809, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 17; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Rockefeller, Shin, Spanel, Tom and Weinstein - 29

Voting nay: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli - 17

Excused: Senators Keiser, Regala and Sheldon - 3

ENGROSSED SUBSTITUTE SENATE BILL NO. 6809, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6818, with the following amendment: 6818 AMH ENGR H5872.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The intent of the legislature is to make state revenue and expenditure data as open, transparent, and publicly accessible as is feasible. Increasing the ease of public access to state budget data, particularly where the data are currently available from disparate internal government sources but are difficult for the public to collect and efficiently aggregate, significantly contributes to governmental accountability, public participation, agency efficiency, and open government.

NEW SECTION. Sec. 2. A new section is added to chapter 44.48 RCW to read as follows:

(1) By January 1, 2009, in collaboration with the office of financial management, using existing databases and structures currently shared, the office of the legislative evaluation and accountability program committee shall establish and make available to the public a searchable state expenditure information web site. The state expenditure information web

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site shall provide access to current budget data, access to current accounting data for budgeted expenditures and staff, and access to historical data. At a minimum, the web site will provide access or links to the following information as data are available:

- (a) State expenditures by fund or account;
 - (b) State expenditures by agency, program, and subprogram;
 - (c) State revenues by major source;
 - (d) State expenditures by object and subobject;
 - (e) State agency workloads, caseloads, and performance measures, and recent performance audits; and
 - (f) State agency budget data by activity.
- (2) "State agency," as used in this section, includes every state agency, office, board, commission, or institution of the executive, legislative, or judicial branches, including institutions of higher education.

(3) The state expenditure information web site shall be updated periodically as subsequent fiscal year data become available, and the prior year expenditure data shall be maintained by the legislative evaluation and accountability program committee as part of its ten-year historical budget data.

NEW SECTION. Sec. 3. A new section is added to chapter 43.88 RCW to read as follows:

(1) The office of financial management shall make electronically available to the public a database of state agency contracts for personal services required to be filed with the office of financial management under chapter 39.29 RCW.

(2) The state expenditure information web site described in section 2 of this act shall include a link to the office of financial management database described in subsection (1) of this section.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.150 RCW to read as follows:

(1) Upon the release of each proposed omnibus appropriations act and final enacted budget, the legislative evaluation and accountability committee shall prepare and cause to be posted on a publicly accessible web site a presentation consisting of potential examples of the types and levels of educational programs and services supported by funding provided in the proposed or enacted omnibus appropriations act under specified allocations for the support of common schools.

(2) The purpose of the presentation created in subsection (1) of this section is to make transparent to the public, using categories and terms that are readily understood, examples of the type and level of educational programs and services supported by funding appropriated in the omnibus appropriations act under specified programs for support of the common schools. Such transparency promotes better public understanding of the state resources provided to support the common schools. The information in the presentation is for illustrative purposes only. It is not intended, nor is it to be construed, to represent how state allocations are actually used by individual school districts, nor how school districts are expected or required to expend state allocations.

(3) Each legislative evaluation and accountability program committee presentation prepared under this section shall provide estimates for the following items, based on the level of state funding appropriated in the budget bill for which the presentation is prepared and for the school year immediately following the legislative session in which the bill is considered:

- (a) For the general apportionment program:
 - (i) Estimated state-funded class size in elementary, middle, and high school grade spans;
 - (ii) Average state-funded teacher salary, total teacher compensation, administrator salary, and classified staff salary;
 - (iii) Estimated number of state-funded staff of various classifications in a hypothetical average-sized school; and
 - (iv) Estimated amount per pupil for nonemployee related costs, including a breakdown of the per pupil amount by selected major categories of expenditure;
- (b) For the learning assistance program, the transitional bilingual program, and the highly capable student program: Estimated hours of additional instruction per week in each program;
- (c) For the special education excess cost allocation: Estimated amount per eligible student;

(d) For the promoting academic success program: Estimated hours of remediation for various types of students, hours of teacher planning time, and class size; and

(e) For the student achievement fund: Estimated amount per pupil in each category of use of the funds under RCW 28A.505.210 and estimated staffing or additional instructional time supported by the funds in a hypothetical average-sized school.

(4) Each document shall also contain a brief narrative description of how the estimates provided under subsection (3) of this section were calculated and the major assumptions behind the calculations. Estimates may be developed using documented expenditure patterns of school districts, best practices, or other sources of information."

Correct the title. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Oemig moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6818.

MOTION

On motion of Senator Zarelli, Senator Hewitt was excused.

The President declared the question before the Senate to be the motion by Senator Oemig that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6818.

The motion by Senator Oemig carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6818 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6818, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6818, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Hewitt and Sheldon - 2

SUBSTITUTE SENATE BILL NO. 6818, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 6821, with the following amendment: 6821.E AMH AGNR H5832.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 42.56.430 and 2007 c 293 s 1 are each amended to read as follows:

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The following information relating to fish and wildlife is exempt from disclosure under this chapter:

(1) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data, however, this information may be released to government agencies concerned with the management of fish and wildlife resources;

(2) Sensitive fish and wildlife data. Sensitive fish and wildlife data may be released to the following entities and their agents for fish, wildlife, land management purposes, or scientific research needs: Government agencies, public utilities, and accredited colleges and universities. Sensitive fish and wildlife data may also be released to the owner, lessee, or right-of-way or easement holder of the private land to which the data pertains. The release of sensitive fish and wildlife data may be subject to a confidentiality agreement, except upon release of sensitive fish and wildlife data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data. Sensitive fish and wildlife data does not include data related to reports of predatory wildlife as specified in RCW 77.12.885. Sensitive fish and wildlife data must meet at least one of the following criteria of this subsection as applied by the department of fish and wildlife:

(a) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(b) Radio frequencies used in, or locational data generated by, telemetry studies; or

(c) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(i) The species has a known commercial or black market value;

(ii) There is a history of malicious take of that species and the species behavior or ecology renders it especially vulnerable;

(iii) There is a known demand to visit, take, or disturb the species; or

(iv) The species has an extremely limited distribution and concentration; ~~(and)~~

(3) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag; however, the department of fish and wildlife may disclose personally identifying information to:

(a) Government agencies concerned with the management of fish and wildlife resources;

(b) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(c) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040; and

(4) Information that the department of fish and wildlife has received or accessed but may not disclose due to confidentiality requirements in the Magnuson-Stevens fishery conservation and management reauthorization act of 2006 (16 U.S.C. Sec. 1861(h)(3) and (i), and Sec. 1881a(b)).

Sec. 2. RCW 77.80.020 and 1984 c 67 s 1 are each amended to read as follows:

(1)(a) The department may purchase commercial fishing vessels and appurtenant gear, and the current state commercial fishing licenses, delivery permits, and charter boat licenses if the license or permit holder was substantially restricted in fishing as a result of compliance with *United States of America et al. v. State of Washington et al.*, Civil No. 9213, United States District Court for Western District of Washington, February 12, 1974, and *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon, 1969), as amended, affirmed, and remanded 529 F. 2d 570 (9th Cir., 1976).

(b) The department may also make such purchases if the license or permit holder was substantially restricted in fishing as a result of compliance with *United States of America et al. v. State of Washington et al.*, 873 F. Supp. 1422 (W.D. Wash. 1994) as affirmed in part, reversed in part, and remanded 157 F.3d 630 (9th Cir., 1998), if the federal government provides funding to the state for the purpose of initiating these purchases.

(2) The department shall not purchase a vessel under this section without also purchasing all current Washington commercial fishing licenses and delivery permits and charter boat licenses issued to the vessel or its owner. The department may purchase current licenses and delivery permits without purchasing the vessel.

Sec. 3. RCW 77.80.050 and 1995 c 269 s 3201 are each amended to read as follows:

The director shall adopt rules for the administration of ~~(the program)~~ this chapter. To assist the department in the administration of ~~(the program)~~ this chapter, the director may contract with persons not employed by the state and may enlist the aid of other state agencies.

Sec. 4. RCW 77.80.060 and 2000 c 107 s 91 are each amended to read as follows:

(1) The director is responsible for the administration and disbursement of all funds, goods, commodities, and services received by the state under ~~(the program)~~ this chapter.

(2) There is created within the state treasury a fund to be known as the "vessel, gear, license, and permit reduction fund". This fund shall be used for purchases under RCW 77.80.020 and for the administration of ~~(the program)~~ this chapter. This fund shall be credited with federal or other funds received to carry out the purposes of ~~(the program)~~ this chapter and the proceeds from the sale or other disposition of property purchased under RCW 77.80.020.

NEW SECTION. Sec. 5. RCW 77.80.010 (Definitions) and 2000 c 107 s 88, 1985 c 7 s 150, 1983 1st ex.s. c 46 s 155, 1977 ex.s. c 230 s 3, & 1975 1st ex.s. c 183 s 3 are each repealed."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hatfield moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6821.

The President declared the question before the Senate to be the motion by Senator Hatfield that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6821.

The motion by Senator Hatfield carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6821 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6821, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6821, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 46

Absent: Senator Tom - 1

Excused: Senators Hewitt and Sheldon - 2

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ENGROSSED SENATE BILL NO. 6821, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6839, with the following amendment: 6839 AMH CL ELGE 062

On page 5, beginning on line 16, after "effect of" strike all material through "fund" on line 18 and insert "this act on the revenue and costs to the state fund" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Marr moved that the Senate concur in the House amendment(s) to Senate Bill No. 6839.

Senator Marr spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Marr that the Senate concur in the House amendment(s) to Senate Bill No. 6839.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6839 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6839, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6839, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Sheldon - 1

SENATE BILL NO. 6839, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5831, with the following amendment: 5831-S.E AMH ENGR H6024.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION, Sec. 1. (1)(a) A joint legislative task force on heating, ventilating, air conditioning, and refrigeration is established, with members as provided in this subsection.

(i) The chair and ranking minority member of the senate labor, commerce, research and development committee;

(ii) The chair and ranking minority member of the house commerce and labor committee;

(iii) Four members representing the heating, ventilating, air conditioning, and refrigeration industry, selected from nominations submitted by statewide business organizations representing a cross-section of industries and appointed jointly by the president of the senate and the speaker of the house of representatives. At least one industry representative shall be from a county that has a contiguous border with another state; and

(iv) Four members representing labor, selected from nominations submitted by statewide labor organizations representing a cross-section of industries and appointed jointly by the president of the senate and the speaker of the house of representatives. At least one labor representative shall be from a county that has a contiguous border with another state.

(b) In addition, the department of labor and industries shall cooperate with the joint legislative task force and maintain a liaison representative, who shall be a nonvoting member. The department shall cooperate with the joint legislative task force and provide information as the joint legislative task force may reasonably request.

(c) The joint legislative task force shall choose its chair from among its membership.

(2) The joint legislative task force shall review the following:

(a) Requirements for registering, certifying, and licensing heating, ventilating, air conditioning, and refrigeration mechanics;

(b) Methods of registering or licensing contractors who qualify for two or more registrations or licenses;

(c) Levels of mechanic certification and types of mechanic specialties;

(d) On-the-job experience requirements for levels of mechanic certification;

(e) Methods by which apprentices and other persons learning to perform heating, ventilating, air conditioning, and refrigeration work obtain trainee certificates;

(f) Exemptions to registration, certification, and licensing requirements;

(g) Implementation of chapter 18.-- RCW (the new chapter created in section 40 of this act); and

(h) Such other factors the joint legislative task force deems necessary.

(3) Legislative members of the joint legislative task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(4) The expenses of the joint legislative task force shall be paid jointly by the senate and the house of representatives.

(5) The joint legislative task force shall report its findings and recommendations to the legislature by January 1, 2009.

(6) This section expires July 1, 2009.

NEW SECTION, Sec. 2. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" means a person who has submitted the appropriate form or forms to be considered for an HVAC/R mechanic certificate, a temporary HVAC/R mechanic certificate, a trainee certificate, or an HVAC/R operator certificate, as required by the department.

(2) "Board" means the HVAC/R board established in section 28 of this act.

(3) "Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or a combination thereof, under pressure or vacuum by the application of heat, electricity, or nuclear energy. "Boiler" also includes fired units for heating or vaporizing liquids other than water where these systems are complete within themselves.

(4) "BTUH" means British thermal units per hour.

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(5) "Certified HVAC/R mechanic" means a person who has been issued a valid HVAC/R mechanic certificate under section 17 of this act.

(6) "Certified specialty mechanic" means a person who has been issued one or more valid specialty mechanic certificates under section 17 of this act.

(7) "CFM" means cubic feet per minute.

(8) "Department" means the department of labor and industries.

(9) "Director" means the director of the department or the director's designee.

(10) "Gas company" has the same meaning as in RCW 80.04.010.

(11) "Gas company service piping" means gas piping that is owned by or under the control of a gas company and used for transmission or distribution of fuel to the point of contact at the premises or property supplied or to be supplied, including service connections, meters, or other apparatus or appliance used in the measurement of the consumption of fuel by the customer. For the purposes of this subsection, "point of contact" means the outlet of the meter or the connection to the customer's gas piping, whichever is farther downstream.

(12) "Gas piping" means pipes, valves, or fittings used to convey fuel gas installed on a premise or in a building. "Gas piping" does not include gas company service piping or any gas piping used directly in the generation of electricity by an electric utility or a commercial-scale nonutility generator of electricity.

(13) "Gas piping work" means to install, replace, or service gas piping and venting related to gas piping. Solely for accruing hours of HVAC/R work, "gas piping" also means to design, fabricate, and construct gas piping and venting related to gas piping.

(14) "Hearth products" means any fuel gas or oil-fueled appliance that has a visual presence in a living space of a residence or any outdoor fuel gas barbecue or fireplace that is listed to the appropriate underwriters laboratories, American national standards institute, or ASTM international product safety standard.

(15) "Hours of HVAC/R work" means any combination of accrued hours of HVAC/R work performed while:

(a) Employed by an HVAC/R contractor or a person exempt from the requirements of chapter 18.27 RCW, chapter 19.28 RCW, or this chapter;

(b) Employed by a registered or licensed general or specialty contractor, or the equivalent, in another state or country; or

(c) Serving in the United States armed forces.

(16) "HVAC" means heating, ventilating, and air conditioning.

(17)(a) "HVAC equipment and systems" means equipment necessary for any system that heats, cools, conditions, ventilates, filters, humidifies, or dehumidifies environmental air for residential, industrial, or commercial use, including all related ventilation and ducting systems.

(b) "HVAC equipment and systems" does not include: (i) Solid fuel burning devices, such as wood stoves and coal stoves; (ii) gas company service piping; (iii) gas piping other than that necessary to deliver fuel; or (iv) boilers.

(18) "HVAC work" means to install, replace, service, test, or adjust and balance HVAC equipment and systems. Solely for accruing hours of HVAC/R work, "HVAC work" also means to design, fabricate, and construct HVAC equipment and systems.

(19) "HVAC/R" means heating, ventilating, air conditioning, and refrigeration.

(20) "HVAC/R contractor" means any person who:

(a) Advertises for, offers to perform, submits a bid for, or performs any HVAC/R work covered by the provisions of this chapter;

(b) Employs anyone, or offers or advertises to employ anyone, to perform any HVAC/R work that is subject to the provisions of this chapter; or

(c) Is registered under section 3(1)(b) of this act.

(21) "HVAC/R equipment and systems" means HVAC equipment and systems, refrigeration systems, and gas piping.

(22) "HVAC/R mechanic certificate" means any of the certificates identified under section 8 of this act.

(23) "HVAC/R operator certificate" means the certificate identified under section 11 of this act.

(24) "HVAC/R work" means all HVAC work, refrigeration work, and gas piping work not otherwise exempted by this chapter.

(25) "Person" or "company," used interchangeably throughout this chapter, means any individual, corporation, partnership, limited partnership, organization, or any other entity whatsoever, whether public or private.

(26) "Property management company" means a company that is operating in compliance with state real estate licensing rules and is under contract with a property owner to manage the buildings.

(27) "Refrigeration system" means a combination of interconnected refrigerant-containing parts constituting one closed refrigerant circuit in which a refrigerant is circulated for the purpose of extracting heat and includes systems in which a secondary coolant, cooled or heated by the refrigeration system, is circulated to the air or other substance to be cooled or heated.

(28) "Refrigeration work" means to design, fabricate, construct, install, replace, or service refrigeration systems. Solely for accruing hours of HVAC/R work, "refrigeration work" also means to design, fabricate, and construct refrigeration systems.

(29) "Service" means to repair, modify, or perform other work required for the normal continued performance of HVAC/R equipment and systems.

(30) "Specialty certificate" means any of the certificates identified under section 7 of this act.

(31) "Technical college" means a public community or technical college, or a not-for-profit nationally accredited technical or trade school licensed by the workforce training and education coordinating board under chapter 28C.10 RCW.

(32) "Temporary certificate" means any of the certificates issued under section 9 of this act.

(33) "Trainee" means a person who has been issued a trainee certificate by the department under section 10 of this act.

(34) "Trainee certificate" means any certificate issued under section 10 of this act.

(35) "Valid" means not expired, revoked, or suspended.

NEW SECTION. Sec. 3. CONTRACTOR REGISTRATION--CONCURRENT REGISTRATION--REQUIREMENTS. (1) Except as provided in this chapter, it is unlawful for:

(a) Any person to engage in business as an HVAC/R contractor, within the state, without having been issued a valid registration as a contractor under chapter 18.27 RCW;

(b) Any person, on or after July 1, 2009, to engage in business as an HVAC/R contractor, within the state, without having been issued a valid registration as an HVAC/R contractor from the department; and

(c) Any person, on and after July 1, 2010, to employ a person to perform or offer to perform HVAC/R work who has not been issued a valid HVAC/R mechanic certificate, specialty certificate, temporary HVAC/R mechanic certificate, trainee certificate, or HVAC/R operator certificate issued by the department under this chapter.

(2) The department shall prescribe an application form to be used to apply for an HVAC/R contractor registration under this chapter, and shall ensure that the person applying for an HVAC/R contractor registration is also a registered general or specialty contractor under chapter 18.27 RCW before it issues that person an HVAC/R contractor registration.

(3) For a person who may be issued two or more registrations or licenses provided for in chapter 18.27 RCW, chapter 19.28 RCW, or this chapter, the department shall establish on or before July 1, 2011, a single registration/licensing document. The document shall list all of the person's registrations and licenses.

(4) Regardless of when the HVAC/R contractor registration is issued, it shall become suspended, revoked, expired, or renewed at the same time as the registration issued under chapter 18.27 RCW.

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(5) No bond or security in addition to that required of contractors under chapter 18.27 RCW shall be required of an HVAC/R contractor under this chapter.

(6) This section does not apply to:

(a) A person who is contracting for HVAC/R work on his or her own residence;

(b) A person whose employees perform only HVAC/R work exempted under section 5 of this act; or

(c) A person who is specifically exempted under RCW 18.27.090 from contractor registration requirements.

NEW SECTION. Sec. 4. CERTIFICATE REQUIRED--LOCAL PREEMPTION. (1) Except as provided in this chapter, it is unlawful for any person, on and after July 1, 2010, to perform or offer to perform HVAC/R work without having been issued a valid HVAC/R mechanic certificate, specialty certificate, temporary HVAC/R mechanic certificate, or trainee certificate under this chapter.

(2) Except as provided in section 5(1)(o) of this act, no political subdivision of the state shall require a person possessing a valid HVAC/R certificate, specialty certificate, temporary HVAC/R mechanic certificate, trainee certificate issued by the department under this chapter, or any person who is exempted under this chapter to demonstrate any additional proof of competency in, obtain any license for, or pay any fee to perform HVAC/R work in that political subdivision.

NEW SECTION. Sec. 5. EXEMPTIONS FROM CERTIFICATION. (1) The provisions of section 4(1) of this act do not apply to a person:

(a) Cleaning or replacing air filters, lubricating bearings, replacing fan belts, cleaning evaporators or condensers, cleaning cooling towers, or equipment logging on any HVAC/R equipment or systems;

(b) Performing HVAC/R work on HVAC/R equipment or systems that: (i) Contain six pounds or less of any refrigerant and is actuated by a motor or engine having a standard rating of one-quarter horsepower or less; or (ii) are an absorption system that has a rating of one-quarter ton or less refrigeration effect;

(c) Setting oil tanks and related piping to a furnace;

(d) Setting propane tanks and related piping outside a building;

(e) Performing gas piping work on a fuel burning appliance with a maximum capacity of five hundred thousand BTUH while holding a valid journeyman plumber certificate issued under chapter 18.106 RCW or a valid specialty plumber certificate issued under chapter 18.106 RCW for performing services in RCW 18.106.010(10)(a);

(f) Performing HVAC/R work at his or her residence, farm, place of business, or on other property owned by him or her, unless the HVAC/R work is performed in the construction of a new building intended for rent, sale, or lease;

(g) Performing HVAC/R work on his or her own property or to regularly employed persons working on the premises of their employer, unless the HVAC/R work is performed in the construction of a new building intended for rent, sale, or lease. However, in a city with a population of five hundred thousand or more, it is unlawful for any person to perform or offer to perform the scope of work described in section 11(3) of this act without having been issued a valid HVAC/R operator certificate under this chapter;

(h) Performing HVAC/R work for or on behalf of a gas company when such work is (i) incidental to the business of delivering fuel gas to the premises or (ii) performed pursuant to any tariff on file with the state utilities and transportation commission;

(i) Licensed under chapter 18.08 or 18.43 RCW who is designing HVAC/R equipment or systems, but who is not otherwise performing HVAC/R work;

(j) Making a like-in-kind replacement of a household appliance;

(k) Installing wood or pellet stoves, including directly related venting such as a chimney or flue;

(l) Performing minor flexible ducting repairs in a single-family residential structure;

(m) Performing cleaning, repair, or replacement of fuel oil filters and nozzles of an oil heat burner assembly;

(n) Making like-in-kind replacement of an oil heat furnace in a single-family residential structure and the associated fittings necessary to connect the replacement oil heat furnace to existing ductwork in a single-family residential structure; or

(o) Installing, replacing, and servicing hearth products. As used in this subsection, "installing and replacing" means removing and setting the hearth product pursuant to manufacturer instructions and specifications, connecting a hearth product with or disconnecting the hearth product from an approved flexible gas supply line not to exceed thirty-six inches in length, and installing or uninstalling venting that is directly related to the hearth product and that has been provided in the same packaging of the hearth product by the manufacturer.

(2) Nothing in this section precludes any person who is exempted under this section from obtaining an HVAC/R mechanic certificate, specialty certificate, temporary HVAC/R mechanic certificate, trainee certificate, or HVAC/R operator certificate if they otherwise meet the requirements of this chapter.

NEW SECTION. Sec. 6. TEMPORARY EXEMPTION FROM CERTIFICATION. (1) Except for persons performing refrigeration work in a city with a population of five hundred thousand or more, the provisions of section 4(1) of this act do not apply to a person performing refrigeration work on a refrigeration system:

(a) Using only class A1 refrigerants;

(b) Used primarily for the refrigeration of food products; and

(c) Physically located in an establishment whose North American industry classification system code is within "445."

(2) Nothing in this section precludes any person exempted under this section from obtaining any of the certificates provided for in this chapter if he or she otherwise meets the requirements of this chapter.

(3) This section expires June 30, 2013.

NEW SECTION. Sec. 7. SPECIALTY CERTIFICATES--SCOPE OF WORK. The department may issue the following specialty certificates to an applicant who has successfully met the requirements under this chapter for a specialty certificate, and the scope of work that may be performed by a person under each of the specialty certificates is as follows:

(1) Gas piping specialty mechanic I/II. A person issued a gas piping specialty mechanic I/II certificate may perform gas piping work on a fuel burning appliance with a maximum capacity of five hundred thousand BTUH.

(2) Refrigeration specialty mechanic I. A person issued a refrigeration specialty mechanic I certificate may perform refrigeration work on a refrigeration system that contains less than thirty pounds of class A1 refrigerants.

(3) HVAC specialty mechanic I. A person issued an HVAC specialty mechanic I certificate may perform HVAC work on HVAC equipment and systems of seven and one-half tons or less or HVAC equipment and systems of three thousand three hundred seventy-five CFM or less.

(4) Refrigeration specialty mechanic II. A person issued a refrigeration specialty mechanic II certificate may perform refrigeration work on a refrigeration system that contains less than seventy pounds of class A1 refrigerants.

(5) HVAC specialty mechanic II. A person issued an HVAC specialty mechanic II certificate may perform:

(a) HVAC work authorized to be performed by an HVAC specialty mechanic I; and

(b) HVAC work on HVAC equipment and systems of twenty tons or less or HVAC equipment and systems of nine thousand CFM or less.

(6) Gas piping specialty mechanic III. A person issued a gas piping specialty mechanic III certificate may perform all gas piping work on any fuel burning appliance.

(7) Refrigeration specialty mechanic III. A person issued a refrigeration specialty mechanic III certificate may perform refrigeration work on any refrigeration system using any refrigerant.

(8) HVAC specialty mechanic III. A person issued an HVAC specialty mechanic III certificate may perform all HVAC work on HVAC equipment and systems.

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NEW SECTION. Sec. 8. HVAC/R MECHANIC CERTIFICATES--SCOPE OF WORK. The department may issue the following HVAC/R mechanic certificates to an applicant who has successfully met the requirements under this chapter for an HVAC/R certificate, and the scope of work that may be performed by a person under each of the HVAC/R mechanic certificates is as follows:

(1) HVAC/R mechanic I. A person issued an HVAC/R mechanic I certificate may perform:

- (a) Gas piping work authorized to be performed by a gas piping specialty mechanic I/II;
- (b) Refrigeration work authorized to be performed by a refrigeration specialty mechanic I; and
- (c) HVAC work authorized to be performed by an HVAC specialty mechanic I.

(2) HVAC/R mechanic II. A person issued an HVAC/R mechanic II certificate may perform:

- (a) Gas piping work authorized to be performed by a gas piping specialty mechanic I/II;
- (b) Refrigeration work authorized to be performed by a refrigeration specialty mechanic II; and
- (c) HVAC work authorized to be performed by an HVAC specialty mechanic II.

(3) HVAC/R mechanic III. A person issued an HVAC/R mechanic III certificate may perform:

- (a) Gas piping work authorized to be performed by a gas piping specialty mechanic III;
- (b) Refrigeration work authorized to be performed by a refrigeration specialty mechanic III; and
- (c) HVAC work authorized to be performed by an HVAC specialty mechanic III.

NEW SECTION. Sec. 9. TEMPORARY HVAC/R CERTIFICATE--APPLICATION--EXAMINATION REQUIRED. (1) On and after July 1, 2010, a person who has performed HVAC/R work in other states or countries may, in a form and manner prescribed by the department, apply for a temporary HVAC/R mechanic certificate to perform HVAC/R work in this state. The application shall contain evidence of the person's hours of HVAC/R work in the other states or countries that is verifiable by the department.

(2) Upon review of the application provided in subsection (1) of this section, the department may:

- (a) If the applicant has accrued less than two thousand hours of HVAC/R work, not issue a temporary HVAC/R mechanic certificate;
- (b) If the applicant has accrued two thousand hours or more, but less than four thousand hours of HVAC/R work, issue a temporary HVAC/R mechanic I certificate;
- (c) If the applicant has accrued four thousand hours or more, but less than eight thousand hours of HVAC/R work, issue a temporary HVAC/R mechanic II certificate; or
- (d) If the applicant has accrued eight thousand hours or more of HVAC/R work, issue a temporary HVAC/R mechanic III certificate.

(3) The temporary HVAC/R mechanic certificate issued under this section shall clearly indicate on the document that it is temporary in nature and contain the period for which it is valid.

(4) A person issued a temporary HVAC/R mechanic certificate shall have that certificate in his or her possession when performing any HVAC/R work and shall show the certificate to any authorized representative of the department upon request.

(5) A person issued a temporary HVAC/R mechanic certificate under this section may only perform the scope of work authorized under section 8 of this act for the equivalent HVAC/R mechanic certificate and may not supervise any person with a trainee certificate issued under this chapter.

(6) A temporary HVAC/R mechanic certificate issued under this section shall be valid for ninety days from the date the department issues a certificate or until the date the department furnishes to the applicant the results of their examination for the equivalent HVAC/R mechanic certificate, whichever is later. The applicant must take the examination provided under this

chapter for the equivalent HVAC/R mechanic certificate within the ninety-day period granted under this subsection.

NEW SECTION. Sec. 10. TRAINEE CERTIFICATE. (1) A person may, in a form and manner prescribed by the department, apply for a trainee certificate to perform HVAC/R work in the state.

(2) Upon receipt of the application, the department shall issue a trainee certificate to the applicant.

(3) The HVAC/R work performed under a trainee certificate issued pursuant to this section must be:

- (a) Within the scope of work authorized under that certificate;
- (b) On the same job site and under the direction of an appropriately certified HVAC/R mechanic or an appropriately certified specialty mechanic; and
- (c) Under the applicable supervision ratios required in section 18 of this act.

(4) A trainee shall have his or her certificate in his or her possession when performing any HVAC/R work and shall show the certificate to any authorized representative of the department upon request.

(5) A trainee certificate shall be valid for a maximum of two years from the date of issuance. The certificate shall include the expiration date.

(6) The department may only renew a training certificate when the trainee provides the department with:

- (a) An accurate list of the persons who employed the trainee in HVAC/R work for the previous two-year period and the number of hours of HVAC/R work performed under each employer; and
- (b) Evidence that the trainee has met the continuing education requirements in section 20 of this act.

(7) If a person applies for a trainee certificate under this section and electrical trainee status under chapter 19.28 RCW, the department shall create, on or before July 1, 2011, a single document for that person that represents this concurrent trainee status.

(8) A trainee who has not successfully passed any portion of the examinations provided for in section 14 of this act is prohibited from performing HVAC/R work in excess of two thousand hours beyond the amount of hours required to become eligible under the requirements of section 15(2)(c) of this act to take the examination for an HVAC/R mechanic III certificate.

NEW SECTION. Sec. 11. HVAC/R OPERATOR CERTIFICATION. (1) An HVAC/R operating engineer may, in a form and manner prescribed by the department, apply for an HVAC/R operator certificate. For the purposes of this subsection, "HVAC/R operating engineer" means a full-time employee who spends a substantial portion of time in the maintenance and operation of HVAC/R equipment and systems in a building, or portion thereof, used for occupant comfort, manufacturing, processing, or storage of materials or products including, but not limited to, chemicals, food, candy, and ice cream factories, ice-making plants, meat packing plants, refineries, perishable food warehouses, hotels, hospitals, restaurants, and similar occupancies and equipped with a refrigeration system and whose duty it is to operate, maintain, and keep safe and in serviceable condition all of the employer's HVAC/R equipment and systems.

(2) The department may issue an HVAC/R operator certificate to an applicant who has successfully passed the examination provided for in subsection (8) of this section.

(3) The scope of work that may be performed by a person under an HVAC/R operator certificate is as follows:

- (a) Cleaning or replacing air filters, lubricating bearings, replacing fan belts, cleaning evaporators or condensers, cleaning cooling towers, or equipment logging on any HVAC/R equipment or systems; or
- (b) Performing minor HVAC/R equipment and systems repair and HVAC/R work on sealed HVAC/R equipment and systems.

(4) A person who performs HVAC/R work on HVAC/R equipment or systems that: (a) Contain six pounds or less of any refrigerant and is actuated by a motor or engine having a standard rating of one-quarter horsepower or less; or (b) are an

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absorption system that has a rating of one-quarter ton or less refrigeration effect, is not required to obtain a certificate under this section.

(5) Any person issued a valid refrigeration operating engineer license by the city of Seattle shall be issued an HVAC/R operator certificate without meeting any additional requirements.

(6) A person issued a valid HVAC/R operator certificate under this section shall have his or her certificate in his or her possession when performing any HVAC/R work and shall show the certificate to any authorized representative of the department upon request.

(7) An HVAC/R operator certificate issued under this section shall be valid for a maximum of three years and shall expire on the holder's birthdate. The certificate shall include the expiration date.

(8) The department shall develop an examination that an applicant must pass before they can be issued an HVAC/R operator certificate under this section. The exam shall be comparable to the current refrigeration operating engineer license test used by the city of Seattle.

(9) The hours accrued as an HVAC/R operating engineer under this section may accrue towards the hours required to be eligible to take an examination for an HVAC/R mechanic certificate under section 15 of this act only if the HVAC/R operating engineer is supervised by an appropriately certified HVAC/R mechanic or appropriately supervised specialty mechanic and was issued a trainee certificate under section 10 of this act.

NEW SECTION. Sec. 12. HVAC/R MECHANIC CERTIFICATION WITHOUT EXAMINATION. (1) From July 1, 2009, until June 30, 2010, a person who has performed HVAC/R work may, in a form and manner prescribed by the department, apply for an HVAC/R mechanic certificate without examination. The application shall contain evidence of the person's hours of HVAC/R work or other required information that is verifiable by the department.

(2) Upon review of the application provided in subsection (1) of this section, the department shall:

(a) If the applicant has, since January 1, 1988, accrued less than two thousand hours of HVAC/R work, not issue any HVAC/R mechanic certificate;

(b) If the applicant has, since January 1, 1988, accrued two thousand hours or more, but less than four thousand hours of HVAC/R work, issue an HVAC/R mechanic I certificate;

(c) If the applicant has, since January 1, 1988, accrued four thousand hours or more, but less than eight thousand hours of HVAC/R work, issue an HVAC/R mechanic II certificate; or

(d) If the applicant has, since January 1, 1988:

(i) Accrued eight thousand hours or more of HVAC/R work;

(ii) Completed an appropriately related apprenticeship program approved under chapter 49.04 RCW; or

(iii) Completed an appropriately related apprenticeship program in another state or country equivalent to that provided in chapter 49.04 RCW, issue an HVAC/R mechanic III certificate.

(3) Once the appropriate level of HVAC/R mechanic certificate is issued to a person under this section, that person shall become subject to the other provisions of this chapter for any additional certifications.

(4) This section expires July 1, 2010.

NEW SECTION. Sec. 13. SPECIALTY CERTIFICATION WITHOUT EXAMINATION. (1) From July 1, 2009, until June 30, 2010, a person who has performed HVAC/R work may, in a form and manner prescribed by the department, apply for specialty certificates without examination. The application shall contain evidence of the person's hours of HVAC/R work or other required information that is verifiable by the department.

(2) Upon review of the application provided in subsection (1) of this section, the department shall:

(a) If the applicant holds a valid journey refrigeration mechanic license issued by the city of Seattle, issue a refrigeration specialty mechanic III certificate and an HVAC specialty mechanic III certificate;

(b) If the applicant has, since January 1, 1988, accrued one thousand hours of gas piping work, issue a gas piping specialty mechanic I/II certificate;

(c) If the applicant was licensed in any local jurisdiction to perform gas piping work on a fuel burning appliance with a maximum capacity of five hundred thousand BTUH or less, issue a gas piping specialty mechanic I/II certificate; and

(d) If the applicant was licensed in any local jurisdiction to perform all gas piping work on any fuel burning appliance, issue a gas piping specialty mechanic III certificate.

(3) The specialty certificates provided for in subsection (2) of this section shall be in addition to any HVAC/R mechanic certificate issued by the department under section 12 of this act.

(4) Once the appropriate level of specialty certificate is issued to a person under this section, that person shall become subject to the other provisions of this chapter for any additional certifications.

(5) This section expires July 1, 2010.

NEW SECTION. Sec. 14. EXAMINATION. (1) The department, with advice from the board, shall prepare three separate examinations for the assessment of each level of HVAC/R mechanic certification created in section 8 of this act. Within each examination, there shall be a distinct portion that assesses the competency of the applicant in the appropriate level of gas piping work, refrigeration work, and HVAC work. The department shall adopt rules necessary to implement this section.

(2) The examinations provided for under this section shall be constructed to determine:

(a) Whether the applicant possesses general knowledge of the technical information and practical procedures that are identified within the relevant scope of work; and

(b) Whether the applicant is familiar with the applicable laws and administrative rules of the department pertaining to the relevant scope of work.

(3) The department, with advice from the board, may enter into a contract with a professional testing agency to develop, administer, and score the examinations provided for in this section. The department may set the examination fee by contract with the professional testing agency. However, the examination fee the department charges must cover, but not exceed, the costs of preparing and administering the examination.

(4) The department must administer, at least four times annually, each examination provided under this section to applicants who are eligible for examination under this chapter.

(5) The department must certify the results of each examination administered under this section upon the terms and after such a period of time as the department, with the advice of the board, deems necessary and proper.

(6) A person may be given the appropriate level of examination they are eligible to take as many times as necessary without limit. However, each time an examination is given, the applicant must first pay the required examination fee.

(7) The department, with the advice of the board, may adopt policies and procedures to make examinations available in alternative languages or formats to accommodate all applicants who are eligible for examination under this chapter.

NEW SECTION. Sec. 15. APPLICATION FOR EXAMINATION--ELIGIBILITY. (1) A person with a valid temporary HVAC/R mechanic certificate or trainee certificate may, in a form and manner prescribed by the department, apply for any of the examinations provided for in section 14 of this act. The application shall contain evidence of the person's hours of HVAC/R work or other required information that is verifiable by the department.

(2) Upon receipt of an application for examination under this section, the department shall review the application and determine whether the applicant is eligible to take an examination for an HVAC/R mechanic certificate using the following criteria:

(a) HVAC/R mechanic I certificate. To be eligible to take the examination for an HVAC/R mechanic I certificate, the applicant must have:

(i) Performed a minimum of one thousand hours of HVAC/R work and the entire amount of those hours must be supervised;

(ii) Performed two thousand hours of HVAC/R work and seventy-five percent of those hours must be supervised; or

(iii) Successfully completed an appropriately related apprenticeship program approved under chapter 49.04 RCW that meets the requirements of this level of certification.

(b) HVAC/R mechanic II certificate. To be eligible to take the examination for an HVAC/R mechanic II certificate, the applicant must have:

(i) Performed a minimum of four thousand hours of HVAC/R work and seventy-five percent of those hours must be supervised; or

(ii) Successfully completed an appropriately related apprenticeship program approved under chapter 49.04 RCW that meets the requirements of this level of certification.

(c) HVAC/R mechanic III certificate. To be eligible to take the examination for an HVAC/R mechanic III certificate, the applicant must have:

(i) Performed under appropriate supervision levels the amount of HVAC/R work required for an HVAC/R mechanic II certificate under (b)(i) of this subsection plus an additional two thousand hours and the entire amount of the additional hours required under this subsection must be supervised;

(ii) Performed HVAC/R work for a minimum of eight thousand hours and seventy-five percent of those hours must be supervised; or

(iii) Successfully completed an appropriately related apprenticeship program under chapter 49.04 RCW that meets the requirements of this level of certification.

(3) For the purposes of this section, "supervised" means:

(a) A person has performed HVAC/R work on the same job site and under the direction of an appropriately certified HVAC/R mechanic or an appropriately certified specialty mechanic; and

(b) The appropriate supervision ratios required in section 18 of this act were followed.

(4) If any of an applicant's certificates issued prior to the current application have been revoked, the department may deny the current application for up to two years.

(5) Upon determining that the applicant is eligible to take an examination under this section, the department shall so notify the applicant, indicating the time and place for taking the examination.

(6) Work hours being accrued by an applicant as hours of HVAC/R work under this chapter or towards electrical certification under chapter 19.28 RCW may be credited for both the hours of HVAC/R work required under this chapter and the hours of work required under chapter 19.28 RCW.

(7) If an applicant is eligible for an examination under this section and an examination under chapter 19.28 RCW, the department may administer all such examinations at the same examination session. However, upon request of the applicant, the department may administer each examination at the time required in statute or rule for each examination.

NEW SECTION. Sec. 16. ALTERNATIVES TO WORK EXPERIENCE. (1) A person who has applied for an examination under section 15 of this act and who has successfully completed a board-approved program in HVAC/R work at a technical college, may substitute technical college program hours for hours of HVAC/R work as follows:

Type of Certificate Substitution for Hours of HVAC/R Work

(a)	HVAC/R Mechanic I	Up to 1,000 hours of technical college program may be substituted for up to 1,000 hours of HVAC/R work.
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(b)	HVAC/R Mechanic II	Up to 2,000 hours of technical college program may be substituted for up to 2,000 hours of required HVAC/R work.
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(c)	HVAC/R Mechanic III	Up to 4,000 hours of technical college program may be substituted for up to 4,000 hours of HVAC/R work.
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(2) A person who has applied for an examination under section 15 of this act and who has received training in HVAC/R work in the United States armed forces may substitute those training hours for hours of HVAC/R work subject to approval of the department.

(3) The department shall determine whether program hours accrued under subsection (1) of this section or the training hours accrued under subsection (2) of this section are in HVAC/R work and are appropriate as a substitute for hours of HVAC/R work.

NEW SECTION. Sec. 17. ISSUANCE OF CERTIFICATES--RENEWAL. (1) If an applicant passes all portions of the examination administered to him or her under this chapter, that person:

(a) Is entitled to be issued the appropriate level of HVAC/R mechanic certificate; and

(b) Is subject to the other provisions of this chapter for additional certifications.

(2) If an applicant fails to pass one or more portions of an examination administered to him or her under this chapter, that person:

(a) Is still entitled to be issued the appropriate specialty certificate for each portion of the examination that was passed; and

(b) Is subject to the other provisions of this chapter for additional certifications.

(3)(a) If an applicant demonstrates that he or she has passed required modules of a national certification program and, as a result, has been issued an equivalent level of certification by the national propane gas association, that person is entitled to be issued a gas piping specialty mechanic I/II certificate.

(b) A person certified as a gas piping specialty mechanic I/II under (a) of this subsection is subject to the requirements of this chapter to obtain any additional certificates.

(c) Nothing in this subsection (3) shall be construed to prohibit a person from obtaining any of the other certificates provided for in this chapter if they otherwise meet the requirements of this chapter.

(4) An HVAC/R mechanic certificate or specialty certificates shall be valid for a maximum of three years and shall expire on the holder's birthdate. All certificates shall include the expiration date.

(5) A person issued an HVAC/R mechanic certificate or specialty certificate may only perform the scope of work authorized under sections 7 and 8 of this act for the certificate.

(6) A person issued an HVAC/R mechanic certificate or specialty certificate shall have the certificate in his or her possession when performing any HVAC/R work and shall show the certificate to any authorized representative of the department upon request.

(7) The department shall renew an HVAC/R mechanic certificate or specialty certificate if the person issued the certificate:

(a) Applies for renewal of his or her certificate not more than ninety days after the certificate expires; and

(b) Has complied with the continuing education requirement in section 20 of this act.

(8) The department may not renew a certificate that has been revoked or suspended.

(9) The department may deny renewal of a certificate if the person seeking renewal owes outstanding penalties for a final judgment under this chapter.

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(10) The department shall, on or before July 1, 2011, create a single document and establish a single expiration date for a person who holds two or more certificates or specialty certificates under chapter 18.106 RCW, chapter 19.28 RCW, and this chapter. The document shall list all of the person's certificates and specialty certificates.

NEW SECTION. Sec. 18. SUPERVISION RATIOS--SUPERVISION. (1) The ratio of trainees to appropriately certified HVAC/R mechanics or appropriately certified specialty mechanics on the same job site must not be greater than:

(a) For trainees not in a technical college program, two trainees to each appropriately certified HVAC/R mechanic or appropriately certified specialty mechanic; or

(b) For trainees in a technical college program, four trainees to each appropriately certified HVAC/R mechanic or appropriately certified specialty mechanic.

(2) When the ratio of trainees to appropriately certified HVAC/R mechanics or appropriately certified specialty mechanics on a job site is one appropriately certified HVAC/R mechanic or appropriately certified specialty mechanic to one or two trainees, the appropriately certified HVAC/R mechanic or appropriately certified specialty mechanic must be on the same job site as the trainees for a minimum of seventy-five percent of each working day.

(3) When the ratio of trainees to appropriately certified HVAC/R mechanics or appropriately certified specialty mechanics on a job site is one appropriately certified HVAC/R mechanic or appropriately certified specialty mechanic to three or four trainees, the appropriately certified HVAC/R mechanic or appropriately certified specialty mechanic must:

(a) Directly supervise and instruct the trainees and may not directly make or engage in HVAC/R work; and

(b) Be on the same job site as the trainees for one hundred percent of each working day.

(4) Hours of HVAC/R work that are performed when the supervision ratios are not in compliance with this section do not qualify as supervised hours when accruing hours of HVAC/R work under this chapter.

(5) Notwithstanding any other provision of this chapter, a person:

(a) Who has successfully completed, or is currently enrolled in, an approved appropriately related apprenticeship program or an HVAC/R program at a technical college may perform, unsupervised, the remaining six months of the experience requirements of this chapter;

(b) Determined to be eligible for examination under section 15(2)(a)(i) of this act and who passes all portions of that examination, may perform, unsupervised, the remaining one thousand hours of HVAC/R work required under this chapter for an HVAC/R mechanic I certificate. However, all HVAC/R work performed by this person must be within the scope of work for an HVAC/R mechanic I certificate and this person may not supervise other trainees until they have completed the full two thousand hours of HVAC/R work required by this chapter;

(c) Determined to be eligible for examination under section 15(2)(c)(i) of this act and who passes all portions of that examination, may perform, unsupervised, the remaining two thousand hours of HVAC/R work required under this chapter for an HVAC/R mechanic III certificate. However, all HVAC/R work performed by this person must be within the scope of work for an HVAC/R mechanic III certificate and this person may not supervise other trainees until they have completed the full eight thousand hours of HVAC/R work required by this chapter.

NEW SECTION. Sec. 19. CONTRACTOR REPORTING--AUDIT OF RECORDS. (1) Every person who employs a trainee performing HVAC/R work shall report to the department:

(a) The names and certificate numbers of any trainee who performed HVAC/R work for them and the hours of HVAC/R work performed by each trainee; and

(b) The names and certificate numbers of the appropriately certified HVAC/R mechanics or appropriately certified specialty mechanics who supervised the trainees identified in (a) of this subsection.

(2) Every person who reported hours of HVAC/R work performed by trainees under subsection (1) of this section shall attest that all of the reported hours of HVAC/R work performed by trainees was in compliance with the supervision ratio requirements in section 18 of this act.

(3) The department may audit the records of a person who reported hours of HVAC/R work performed by trainees under subsection (1) of this section in the following circumstances: (a) Excessive hours were reported; (b) hours were reported outside the normal course of the HVAC/R contractor's business; (c) the type of hours reported do not reasonably match the type of permits purchased; or (d) for other similar circumstances in which the department demonstrates a likelihood of excessive hours being reported. The department shall limit the audit to records necessary to verify hours.

(4) Information obtained by the department from any person under this section is confidential and exempt from public disclosure under chapter 42.56 RCW.

NEW SECTION. Sec. 20. CONTINUING EDUCATION.

(1) A person issued an HVAC/R mechanic certificate or any specialty certificates under this chapter must, prior to the renewal date on their certificate, demonstrate satisfactory completion of twenty-four hours of continuing education.

(2) The department, with the advice of the board, shall determine the contents of the continuing education courses required in subsection (1) of this section and establish the requirements for satisfactory completion of such courses. If the department determines that a continuing education course offered in another state is comparable to courses offered in Washington, the department shall accept proof of satisfactory completion of the out-of-state course as meeting the continuing education requirement in this section.

(3) A trainee must, prior to the renewal date on their certificate, demonstrate satisfactory completion of sixty hours of related supplemental instruction or equivalent training courses, or courses taken as part of an appropriately related apprenticeship program approved under chapter 49.04 RCW.

(4) The department, with the advice of the board, shall determine the contents of the related supplemental instruction or equivalent training courses, or courses taken as part of an appropriately related apprenticeship program approved under chapter 49.04 RCW required under subsection (3) of this section, and establish the requirements for satisfactory completion of such courses.

(5) All hours required under this section shall be accrued concurrently and shall not exceed sixty hours for any person in any certificate renewal period.

(6) Hours of approved continuing education required under this section and hours of approved continuing education required under chapter 19.28 RCW may be accrued concurrently. However, nothing in this subsection shall be construed to relieve any person from having to complete any continuing education mandated by the department by rule pursuant to this chapter or pursuant to chapter 19.28 RCW.

NEW SECTION. Sec. 21. RECIPROCITY. The department may enter into a reciprocity agreement with another state whose certification requirements are equal to the standards set under this chapter. The reciprocity agreement shall provide for the acceptance of Washington and the other state's certification program or its equivalent by Washington and the other state.

NEW SECTION. Sec. 22. SUSPENSION AND REVOCATION. (1) The department may revoke any certificate issued under this chapter if the department determines that the recipient: (a) Obtained the certificate through error or fraud; (b) is incompetent to perform HVAC/R work; or (c) committed a violation of this chapter or rules adopted under this chapter that presents imminent danger to the public.

(2) The department shall immediately suspend the certificates of any person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance

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of the certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

NEW SECTION. Sec. 23. CIVIL PENALTIES. Any person found in violation of this chapter shall be assessed a penalty not to exceed five thousand dollars. The department shall set by rule a schedule of penalties for violating this chapter. Each day that a person violates this chapter is a separate violation. Any penalties collected by the department under this chapter shall be deposited into the plumbing and HVAC/R certificate fund.

NEW SECTION. Sec. 24. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. The proceedings for denying applications, suspending or revoking certificates, and imposing civil penalties or other remedies issued pursuant to this chapter and any appeal from those proceedings or review of those proceedings shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 25. FEES. (1) The department shall charge fees for the issuance, renewal, and reinstatement of all certificates and examinations required by this chapter. The department shall set the fee amounts by rule.

(2) The fees collected under this section shall cover the full costs of issuing the registrations and the certificates required by this chapter, devising and administering the examinations required by this chapter, and administering and enforcing this chapter and chapter 18.106 RCW.

NEW SECTION. Sec. 26. DEPOSITS. All moneys received by the department from certificates, examinations, or any other sources under this chapter shall be paid to the state treasurer as ex officio custodian thereof and placed in a special fund designated as the "plumbing and HVAC/R certificate fund." The treasurer shall pay out upon vouchers duly and regularly issued therefor and approved by the director. The treasurer shall keep an accurate record of payments into the fund, and of all disbursements from the fund. The fund shall be charged with its pro rata share of the cost of administering the fund.

NEW SECTION. Sec. 27. LIABILITY. (1) This chapter may not be construed to relieve from or lessen the responsibility or liability of any person for injury or damage to person or property caused by or resulting from any HVAC/R work performed by the person.

(2) The state of Washington and its officers, agents, and employees may not be held liable for any acts performed pursuant to this chapter.

NEW SECTION. Sec. 28. HVAC/R BOARD. (1) An HVAC/R board is established.

(2) The board shall consist of thirteen members to be appointed by the governor with the advice of the director.

(a) Except as provided in this subsection, four members shall be certified HVAC/R mechanics, of which at least one, but not more than two, shall be a certified HVAC/R mechanic performing HVAC/R work east of the crest of the Cascade mountains, and of which at least one shall be a certified HVAC/R mechanic from a county that has a contiguous border with another state. Any members appointed before July 1, 2010, shall be persons who are eligible to be certified without examination under section 12 or 13 of this act or to take an examination for certification under section 15 of this act.

(b) Except as provided in this subsection, four members shall be HVAC/R contractors, of which at least one, but not more than two, shall be an HVAC/R contractor doing business east of the crest of the Cascade mountains, and of which at least one shall be an HVAC/R contractor from a county that has a contiguous border with another state. Any members appointed before July 1, 2009, shall be persons who are engaged in business as HVAC/R contractors and registered as contractors under chapter 18.27 RCW.

(c) One member shall be from the general public and be familiar with HVAC/R work.

(d) One member shall be a building operator representing the commercial property management industry.

(e) One member shall be from the stationary operating engineers.

(f) One member shall be from a technical college or an approved apprenticeship training program.

(g) One member shall be a building official familiar with enforcement of HVAC/R work.

(3) Except as provided in this subsection, the term of each member shall be three years. The term of each initial member shall expire as follows: (a) The terms of the first certified HVAC/R mechanic and the first HVAC/R contractor shall expire July 1, 2009; (b) the terms of the second certified HVAC/R mechanic, the second HVAC/R contractor, and the public member shall expire July 1, 2010; and (c) the terms of the third certified HVAC/R mechanic and the third certified HVAC/R contractor shall expire July 1, 2011. To ensure that the board may continue to act, a member whose term expires shall continue to serve until his or her replacement is appointed. In the case of any vacancy on the board for any reason, the governor shall appoint a new member to serve out the term of the person whose position has become vacant.

(4) The board shall, at its first meeting, elect one of its members to serve as chair.

(5) The board shall meet at least quarterly in accordance with a schedule established by the board.

(6) The board shall:

(a) Conduct proceedings for denying applications, suspending or revoking certificates, and imposing civil penalties or other remedies. Such proceedings shall be conducted in accordance with chapter 34.05 RCW;

(b) Review and make recommendations to adopt, amend, or repeal any rules under this chapter. The director may not adopt, amend, or repeal any rules until the board has conducted its review and made its recommendations;

(c) Establish an alternative method or methods for persons to attest for hours of HVAC/R work when applying for certificates under this chapter, but only when all traditional methods allowing for verification of hours of HVAC/R work have been exhausted;

(d) Approve expenditures from the plumbing and HVAC/R certificate fund; and

(e) Advise the department on all other matters relative to this chapter.

(7) The members of the board are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 29. ADMINISTRATION. (1) The director may adopt rules necessary for the administration of this chapter.

(2) The department shall administer this chapter in conjunction with its administration of chapter 18.106 RCW.

(3) In the administration of this chapter, the department shall not enter any controversy arising over work assignments with respect to the trades involved in the construction industry.

NEW SECTION. Sec. 30. EFFECT ON OTHER LAWS. With the exception of sections 3(3), 10(7), 15 (6) and (7), 17(10), and 20(6) of this act, nothing in this chapter shall be construed to:

(1) Modify, amend, or supersede chapter 18.106 or 19.28 RCW;

(2) Prohibit or restrict an individual who is certified under chapter 18.106 or 19.28 RCW from engaging in the trade in which he or she is certified; or

(3) Regulate or include plumbing work defined in chapter 18.106 RCW and its applicable rules or electrical work defined in chapter 19.28 RCW and its applicable rules.

NEW SECTION. Sec. 31. COMPLIANCE AGENTS. (1) The director shall appoint compliance agents to investigate alleged or apparent violations of this chapter. The director, or authorized compliance agent, upon presentation of appropriate credentials, may inspect and investigate job sites at which an HVAC/R contractor had bid or presently is working to determine whether the HVAC/R contractor is registered and their employees are certified and working in accordance with this chapter or the rules adopted under this chapter or whether there is a violation of this chapter. Upon request of the

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compliance agent, an HVAC/R contractor or an employee of the HVAC/R contractor shall provide information identifying the HVAC/R contractor and those employees working on-site.

(2) If the employee of an unregistered HVAC/R contractor is cited by a compliance agent, that employee is cited as the agent of the employer, and issuance of the infraction to the employee is notice to the unregistered HVAC/R contractor that the contractor is in violation of this chapter. An employee who is cited by a compliance agent shall not be liable for any of the alleged violations contained in the citation unless the employee is also the unregistered HVAC/R contractor or the employee is performing HVAC/R work that requires a certification under this chapter without proper proof of the certification.

NEW SECTION. Sec. 32. NOTICE OF INFRACTION. The department may issue a notice of infraction if the department reasonably believes that a person has committed an infraction under this chapter. A notice of infraction issued under this section shall be personally served on the person named in the notice by the department's compliance agents or service can be made by certified mail directed to the person named in the notice of infraction at the last known address as provided to the department.

NEW SECTION. Sec. 33. NOTICE OF INFRACTION FORM. The form of the notice of infraction issued under this chapter shall include the following:

(1) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(2) A statement that the infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;

(3) A statement of the violation that necessitated issuance of the infraction;

(4) A statement of penalty involved if the infraction is established;

(5) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(6) A statement that at any hearing to contest the notice of infraction the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses, including the compliance agent of the department who issued and served the notice of infraction;

(7) A statement that, at any hearing to contest the notice of infraction against a person who is not properly registered or certified as required under this chapter, the person given the infraction has the burden of proving that the infraction did not occur;

(8) A statement that the person named on the notice of infraction must respond to the notice in one of the ways provided in this chapter; and

(9) A statement that the person's failure to timely select one of the options for responding to the notice of infraction after receiving a statement of the options provided in this chapter for responding to the notice of infraction and the procedures necessary to exercise these options is guilty of a gross misdemeanor and may be punished by a fine or imprisonment in jail.

NEW SECTION. Sec. 34. VIOLATIONS. A violation designated as an infraction under this chapter shall be heard and determined by an administrative law judge of the office of administrative hearings. If a person desires to contest the notice of infraction, the person shall file a notice of appeal with the department specifying the grounds of the appeal within twenty days of service of the infraction in a manner provided by this chapter. The appeal must be accompanied by a certified check for two hundred dollars, which shall be returned to the assessed person if the decision of the department is not sustained following the final decision in the appeal. If the final decision sustains the decision of the department, the department must apply the two hundred dollars to the payment of the expenses of the appeal, including costs charged by the office of administrative hearings. The administrative law judge shall

conduct hearings in these cases at locations in the county where the infraction occurred.

NEW SECTION. Sec. 35. RESPONSE TO NOTICE OF INFRACTION. (1) A person who is issued a notice of infraction shall respond within twenty days of the date of issuance of the notice of infraction.

(2) If the person named in the notice of infraction does not elect to contest the notice of infraction, then the person shall pay to the department, by check or money order, the amount of the penalty prescribed for the infraction. When a response that does not contest the notice of infraction is received by the department with the appropriate penalty, the department shall make the appropriate entry in its records.

(3) If the person named in the notice of infraction elects to contest the notice of infraction, the person shall respond by filing with the department specifying the appeal to the department in the manner specified in this chapter.

(4) If any person issued a notice of infraction fails to respond within the prescribed response period, the person shall be guilty of a misdemeanor and prosecuted in the county where the infraction occurred.

(5) After final determination by an administrative law judge that an infraction has been committed, a person who fails to pay a monetary penalty within thirty days, that is not waived pursuant to this chapter, and who fails to file an appeal shall be guilty of a misdemeanor and be prosecuted in the county where the infraction occurred.

(6) A person who fails to pay a monetary penalty within thirty days after exhausting appellate remedies shall be guilty of a misdemeanor and be prosecuted in the county where the infraction occurred.

(7) If a person who is issued a notice of infraction is a person who has failed to register or be certified as required under this chapter, the person is subject to a monetary penalty per infraction as provided in the schedule of penalties established by the department, and each day the person works without becoming registered or certified is a separate infraction.

Sec. 36. RCW 18.106.125 and 1983 c 124 s 17 are each amended to read as follows:

The department shall charge fees for issuance, renewal, and reinstatement of all certificates and permits and for examinations required by this chapter. The department shall set the fees by rule.

The fees collected under this chapter and chapter 18.-- RCW (the new chapter created in section 40 of this act) shall cover the full cost of issuing the certificates and permits, devising and administering the examinations, and administering and enforcing this chapter and chapter 18.-- RCW (the new chapter created in section 40 of this act). The costs shall include travel, per diem, and administrative support costs.

Sec. 37. RCW 18.106.130 and 1973 1st ex.s. c 175 s 13 are each amended to read as follows:

All moneys received from certificates, permits, or other sources(;) shall be paid to the state treasurer as ex officio custodian thereof and ((by him)) placed in a special fund designated as the ((^(#)))plumbing and HVAC/R certificate fund(^(#)). ((He)) The treasurer shall pay out upon vouchers duly and regularly issued therefor and approved by the director. The treasurer shall keep an accurate record of payments into ((said)) the fund(;) and of all disbursement ((therefrom)) from the fund. ((Said)) The fund shall be charged with its pro rata share of the cost of administering ((said)) the fund.

Sec. 38. RCW 43.84.092 and 2007 c 514 s 3 and 2007 c 356 s 9 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under

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RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Columbia river basin water supply development account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the emergency reserve fund, the energy freedom account, The Evergreen State College capital projects account, the federal forest revolving account, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high-occupancy toll lanes operations account, the plumbing and HVAC/R certificate fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the real estate appraiser commission account, the regional mobility grant program account, the resource management cost account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust

fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 39. RCW 43.84.092 and 2007 c 514 s 3, 2007 c 513 s 1, and 2007 c 356 s 9 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations

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shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the emergency reserve fund, the energy freedom account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the health services account, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high-occupancy toll lanes operations account, the plumbing and HVAC/R certificate fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the safety and

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education account, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 40. CODIFICATION. Sections 2 through 35 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 41. CAPTIONS. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 42. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 43. EFFECTIVE DATE. Except for section 39 of this act, this act takes effect July 1, 2008.

NEW SECTION. Sec. 44. Section 38 of this act expires July 1, 2009.

NEW SECTION. Sec. 45. Section 39 of this act takes effect July 1, 2009.

NEW SECTION. Sec. 46. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5831.

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POINT OF ORDER

Senator Holmquist: "Thank you Mr. President. I believe that the House amendment is beyond the scope and object of the bill as it left the Senate and I have some arguments to offer on this Mr. President. When Senate Bill No. 5831 left the Senate it was a simple two page bill establishing a legislative task force. It is my understanding that this is the current scope of the Senate bill. By contrast what comes before us today for consideration is a house amendment that is forty-three pages long and provides an entire system of regulation for HVAC industry. As it left the Senate there were no substantial changes to the law regarding regulation of the HVAC industry. The House amendment establishes a certification program complete with three levels of certification each with specialties, training requirements, exams, grandfathering provisions, continuing education requirements, exemptions and fees. The bill also establishes an HVAC refrigeration board. Contractor registration requirement are altered and penalties are authorized. Unlike the underlying bill, this amendment makes significant changes in substantive law and policy and goes well beyond the subject matter of the underlying bill as it left the Senate. For these reasons, I believe the House amendment offered is outside the scope and object of the underlying bill and I respectfully request a ruling on this matter. Thank you Mr. President."

Senator Kohl-Welles spoke against the motion.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5831 was deferred and the bill held its place on the concurrence calendar.

MESSAGE FROM THE HOUSE

March 10, 2008

MR. PRESIDENT:

The House has passed the following bills:
ENGROSSED HOUSE BILL NO. 3381,
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 10, 2008

MR. PRESIDENT:

The House concurred in Senate amendment to the following bills and passed the bills as amended by the Senate:
SUBSTITUTE HOUSE BILL NO. 1141,
HOUSE BILL NO. 2467,
SECOND SUBSTITUTE HOUSE BILL NO. 2479,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2480,
SUBSTITUTE HOUSE BILL NO. 2482,
SUBSTITUTE HOUSE BILL NO. 2551,
SECOND SUBSTITUTE HOUSE BILL NO. 2635,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 10, 2008

MR. PRESIDENT:

The House concurred in Senate amendment to the following bills and passed the bills as amended by the Senate:
ENGROSSED HOUSE BILL NO. 2476,

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SUBSTITUTE HOUSE BILL NO. 3120,
SUBSTITUTE HOUSE BILL NO. 3144,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3205,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3254,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 10, 2008

MR. PRESIDENT:

The House concurred in Senate amendment to the following bills and passed the bills as amended by the Senate:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2647,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2668,
SUBSTITUTE HOUSE BILL NO. 2679,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2712,
SECOND SUBSTITUTE HOUSE BILL NO. 2722,
SUBSTITUTE HOUSE BILL NO. 2729,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2783,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2817,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

At 10:38 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:54 a.m. by President Owen.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Holmquist that the House amendments to Engrossed Substitute Senate Bill 5831 are beyond the scope and object of the underlying bill, the President finds and rules as follows:

The President begins by reminding the body that the title of a bill is not controlling for purposes of his analysis; rather, the President will consider the entirety of a measure in making a scope and object determination. Similarly, the version which is relevant for this analysis is the version ultimately passed by the Senate, not the version which was originally introduced. Once this body has taken an affirmative action to amend a measure, that newly-changed version then becomes the dispositive version against which subsequent changes will be compared. Likewise, the Senate's determination in this regard is ultimately preeminent on Senate measures, just as the President defers to the House for scope and object rulings on House measures. All of this is in keeping with past precedent, but it is worth reminding the body, again, as this issue is considered.

Turning now to the bill before us, the President notes that all versions of this measure share a common subject: the certification and regulation of HVAC professionals. In this sense, the House amendments could meet the scope of the bill as it left the Senate. This is not the end of the analysis, however, as the President must next consider the specific purpose—that is, the object—of the bill and amendments.

The underlying bill as it left the Senate essentially did one

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thing: It formed a task force to study HVAC licensing and certification, charging this task force to report its findings back by next year. While the House amendments include the task force, they also add a complete program of licensing and certification relating to HVAC. While this is within the scope, or subject matter, of the bill as it left the Senate, it exceeds the specific purpose, or object, of the Senate version.”

For these reasons, the President therefore finds that the House amendments are beyond the object of the underlying bill, and Senator Holmquist’s point is well-taken.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5831 was deferred and the bill held its place on the concurrence calendar.

MESSAGE FROM THE HOUSE

March 10, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3139 and asks the Senate for a conference thereon. Speaker has appointed the following members as Conferees:

Representatives Conway, Green and Condotta and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Kohl-Welles, the Senate granted the request of the House for a conference on Engrossed Second Substitute House Bill No. 3139 and the Senate amendment(s) thereto.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Second Substitute House Bill No. 3139 and the House amendment(s) there to: Senators Kohl-Welles, Murray and Holmquist.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MOTION

On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR’S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

MOTION

At 11:58 a.m., on motion of Senator Eide, the Senate was recessed until 1:00 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:00 p.m. by President Owen.

MESSAGE FROM THE HOUSE

March 11, 2008

MR. PRESIDENT:

The Speaker has signed the following bills:
 ENGROSSED SENATE BILL NO. 5927,
 SENATE BILL NO. 6204,
 SUBSTITUTE SENATE BILL NO. 6306,
 SUBSTITUTE SENATE BILL NO. 6317,
 SUBSTITUTE SENATE BILL NO. 6340,
 SUBSTITUTE SENATE BILL NO. 6423,
 SUBSTITUTE SENATE BILL NO. 6602,
 SUBSTITUTE SENATE BILL NO. 6678,
 SUBSTITUTE SENATE BILL NO. 6726,
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2008

MR. PRESIDENT:

The Speaker has signed the following bills:
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1030,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1031,
 FOURTH SUBSTITUTE HOUSE BILL NO. 1103,
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1621,
 SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1637,
 THIRD SUBSTITUTE HOUSE BILL NO. 1741,
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1773,
 SUBSTITUTE HOUSE BILL NO. 2014
 SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2176,
 SUBSTITUTE HOUSE BILL NO. 2472,
 SUBSTITUTE HOUSE BILL NO. 2474,
 HOUSE BILL NO. 2510,
 SECOND SUBSTITUTE HOUSE BILL NO. 2514,
 SUBSTITUTE HOUSE BILL NO. 2525,
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2533,
 SECOND SUBSTITUTE HOUSE BILL NO. 2537,
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2549,
 SECOND SUBSTITUTE HOUSE BILL NO. 2557,
 SUBSTITUTE HOUSE BILL NO. 2582,
 SUBSTITUTE HOUSE BILL NO. 2602,
 SUBSTITUTE HOUSE BILL NO. 2639,
 ENGROSSED HOUSE BILL NO. 2641,
 SUBSTITUTE HOUSE BILL NO. 2666,
 SECOND SUBSTITUTE HOUSE BILL NO. 2674,
 SECOND SUBSTITUTE HOUSE BILL NO. 2713,
 SUBSTITUTE HOUSE BILL NO. 2746,
 HOUSE BILL NO. 2774,
 SUBSTITUTE HOUSE BILL NO. 2779,
 HOUSE BILL NO. 2781,
 HOUSE BILL NO. 2786,
 HOUSE BILL NO. 2835,
 SUBSTITUTE HOUSE BILL NO. 2881,
 HOUSE BILL NO. 2887,
 SUBSTITUTE HOUSE BILL NO. 2963,
 HOUSE BILL NO. 3088,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 3096,
 SECOND SUBSTITUTE HOUSE BILL NO. 3129,
 ENGROSSED HOUSE BILL NO. 3142,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 3166,
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3186,
 SECOND SUBSTITUTE HOUSE BILL NO. 3274,

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 SUBSTITUTE HOUSE BILL NO. 3283,
 and the same are herewith transmitted.

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MOTION

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 6955 by Senators Jacobsen, Schoesler and Rasmussen

AN ACT Relating to a mobile livestock unit demonstration project; creating new sections; and providing an expiration date.

Referred to Committee on Agriculture & Rural Economic Development.

EHB 3381 by Representative Sommers

AN ACT Relating to fees to implement programs that protect and improve Washington's health, safety, education, employees, and consumers; amending RCW 39.12.070, 43.22.434, 70.74.137, 70.74.140, 70.74.142, 70.74.144, 70.74.146, 70.74.360, 15.58.070, 15.58.180, 15.58.200, 15.58.205, 15.58.210, 15.58.220, 17.21.070, 17.21.110, 17.21.122, 17.21.126, 17.21.129, and 17.21.220; adding a new section to chapter 70.74 RCW; adding new sections to chapter 18.130 RCW; adding a new section to chapter 18.84 RCW; adding a new section to chapter 16.36 RCW; adding a new section to chapter 18.185 RCW; creating new sections; providing effective dates; and declaring an emergency.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Engrossed House Bill No. 3381 which under suspension of the bill was placed on the second reading calendar.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

THIRD SUBSTITUTE HOUSE BILL NO. 2053, by House Committee on Finance (originally sponsored by Representatives Goodman, Springer, O'Brien, Dunshee, Eddy, Blake, Lovick, Upthegrove, Green, Simpson and Hurst)

Providing for improved availability of motor vehicle fuel during power outages or interruptions in electrical service.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Third Substitute House Bill No. 2053 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

On motion of Senator Schoesler, Senator Benton was excused.

The President declared the question before the Senate to be the final passage of Third Substitute House Bill No. 2053.

ROLL CALL

The Secretary called the roll on the final passage of Third Substitute House Bill No. 2053 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 6; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Weinstein and Zarelli - 42

Absent: Senators Carrell, Hatfield, Honeyford, McCaslin, Swecker and Tom - 6

Excused: Senator Benton - 1

THIRD SUBSTITUTE HOUSE BILL NO. 2053, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2460, by Representative Fromhold

Concerning the leasehold excise tax exemption for certain amphitheater property.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2460 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

MOTION

On motion of Senator Hobbs, Senator Hatfield was excused.

MOTION

On motion of Senator Brandland, Senators Carrell, Honeyford and Swecker were excused.

The President declared the question before the Senate to be the final passage of House Bill No. 2460.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2460 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens,

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Tom, Weinstein and Zarelli - 47

Excused: Senators Honeyford and Swecker - 2

HOUSE BILL NO. 2460, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 11, 2008

MR. PRESIDENT:

The House again refuses to concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2687 and asks the Senate for a conference thereon. Speaker has appointed the following members as Conferees:

Representatives Sommers, Dunshee & Alexander and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Prentice, the Senate granted the request of the House for a conference on Engrossed Substitute House Bill No. 2687 and the Senate amendment(s) thereto.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute House Bill No. 2687 and the House amendment(s) there to: Senators Prentice, Pridemore and Zarelli.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MESSAGE FROM THE HOUSE

March 11, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2765 and asks the Senate for a conference thereon. Speaker has appointed the following members as Conferees:

Representatives Fromhold, McDonald and Schual-Berke and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Fraser, the Senate granted the request of the House for a conference on Engrossed Substitute House Bill No. 2765 and the Senate amendment(s) thereto.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute House Bill No. 2765 and the House amendment(s) there to: Senators Fraser, Regala and Brandland.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2507, by House Committee on Capital Budget (originally sponsored by Representatives O'Brien, Ormsby, Hurst, Goodman, VanDeWege, Liias, Barlow, Green, Kelley, Warnick and Simpson)

Expanding the statewide first responder building mapping information system to higher education facilities.

The measure was read the second time.

MOTION

Senator Shin moved that the following committee striking amendment by the Committee on Higher Education be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that coordinated planning ensures preparation for all future crises. While it is impossible to eliminate the threats posed to our higher education campuses by crime or disaster, natural or person-caused, it is necessary to mitigate impact through effective all hazard emergency preparedness. The legislature also finds that notifying college and university campus communities of an impending, ongoing, or diffused emergency situation is one of the most critical capabilities that a college or university must have. But how a higher education institution achieves the ability to alert students, faculty, and staff quickly, accurately, and dependably in an emergency situation is not a one size fits all solution. While colleges and universities should maintain their autonomy in choosing how to address safety and security risks, certain consistent protocols are essential for making campuses safer. The legislature further finds that higher education institutions need to ensure that campus law enforcement or security communications equipment, as well as communication systems used by colleges and universities during an emergency, meet technical standards and are compatible with other responding agencies' communication systems. Therefore, it is the intent of the legislature to carefully examine best safety practices at the state's institutions of higher education, examine the use of technology to improve emergency communications, and consider the financial implications of safety and security enhancement plans, as well as the funding sources to support them, in order to maximize limited resources and public benefit.

NEW SECTION. Sec. 2. The Washington state patrol and the Washington association of sheriffs and police chiefs, in consultation with the state board for community and technical colleges, the council of presidents, the independent colleges of Washington, and the department of information services, shall conduct a needs analysis and fiscal impact study of potential college and university campus security enhancements, including the addition of two-year and four-year public and independent higher education institutions to the statewide first responder building mapping information system as provided under RCW 36.28A.060.

(1) The study shall:

(a) Assess public and independent colleges and universities to determine whether campus emergency and critical incident plans are up-to-date, comprehensive, and regularly exercised;

(b) Evaluate the potential risks associated with individual types of buildings on all campuses and recommend buildings that are a high priority for adding to the statewide first responder building mapping information system;

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(c) Determine the costs and timelines associated with adding priority campus buildings to the statewide first responder building mapping information system; and

(d) Assess campus emergency notification systems or devices, including emergency radio systems, to determine functionality in the campus environment, the adequacy of coverage throughout a campus, and operational compatibility with the radio systems and frequencies utilized by state and local responding agencies.

(2) The Washington state patrol and the Washington association of sheriffs and police chiefs shall report findings and recommendations to the governor and the legislature by November 1, 2008.

NEW SECTION. Sec. 3. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus capital appropriations act, this act is null and void."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Higher Education to Second Substitute House Bill No. 2507.

The motion by Senator Shin carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "facilities;" strike the remainder of the title and insert "and creating new sections."

MOTION

On motion of Senator Shin, the rules were suspended, Second Substitute House Bill No. 2507 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Shin spoke in favor of passage of the bill.

MOTION

On motion of Senator Delvin, Senator McCaslin was excused.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2507 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2507 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Absent: Senator Oemig - 1

Excused: Senators Honeyford and McCaslin - 2

SECOND SUBSTITUTE HOUSE BILL NO. 2507 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Senate Rule 46 was suspended for the purpose of allowing the conference committees to meet while the Senate is in session through sine die.

MOTION

On motion of Senator Eide, Rule 20 was suspended in order to allow the Senate to consider the Report by the Conference Committee on Engrossed Substitute House Bill No. 2878 in fewer than twenty-four hours after having been properly received by the Senate.

SECOND READING

HOUSE BILL NO. 3188, by Representatives Roach, Hurst, McCune and Dunn

Exempting waste vegetable oil from excise tax.

The measure was read the second time.

MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 3188 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Roach spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3188.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3188 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

HOUSE BILL NO. 3188, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5100,

SUBSTITUTE SENATE BILL NO. 5104,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5261,

SUBSTITUTE SENATE BILL NO. 5524,

SECOND SUBSTITUTE SENATE BILL NO. 5642,

SUBSTITUTE SENATE BILL NO. 5651,

SENATE BILL NO. 5868,

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6111,

SENATE BILL NO. 6187,

SENATE BILL NO. 6215,

SENATE BILL NO. 6261

SENATE BILL NO. 6289,

SUBSTITUTE SENATE BILL NO. 6297,

SENATE BILL NO. 6310,

SUBSTITUTE SENATE BILL NO. 6328,

SENATE BILL NO. 6381,

SUBSTITUTE SENATE BILL NO. 6400,

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SUBSTITUTE SENATE BILL NO. 6439,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6442,
 SENATE BILL NO. 6447,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6560,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6570,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6580,
 SUBSTITUTE SENATE BILL NO. 6596,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6606,
 SUBSTITUTE SENATE BILL NO. 6607,
 SECOND SUBSTITUTE SENATE BILL NO. 6626,
 SUBSTITUTE SENATE BILL NO. 6711,
 SECOND SUBSTITUTE SENATE BILL NO. 6732,
 SENATE BILL NO. 6739,
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 SUBSTITUTE SENATE BILL NO. 6761,
 SUBSTITUTE SENATE BILL NO. 6804,
 SUBSTITUTE SENATE BILL NO. 6805,
 SUBSTITUTE SENATE BILL NO. 6807,
 ENGROSSED SECOND SUBSTITUTE SENATE BILL
 NO. 6874,
 SUBSTITUTE SENATE BILL NO. 6932,
 SUBSTITUTE SENATE BILL NO. 6933,
 SENATE BILL NO. 6941

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3329, by House Committee on Capital Budget (originally sponsored by Representatives Fromhold, McDonald, Ormsby, Wallace, Alexander, Sells and McIntire)

Prioritizing four-year higher education institutions' capital project requests.

The measure was read the second time.

MOTION

Senator Fraser moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the state's public four-year institutions and the higher education coordinating board have made progress in developing a process to create a single prioritized list of capital project requests as required under RCW 28B.76.220. The legislature also finds that this process requires further refinement to achieve the state's policy objectives as outlined in the higher education coordinating board's strategic master plan for higher education in Washington. The legislature further finds the goal of creating additional, innovative facilities and programs that meet the learning needs of students throughout the state in a timely and cost-effective fashion requires a new approach to facility prioritization that emphasizes strategic planning. The legislature therefore intends to establish a new process for prioritizing capital project requests by the four-year institutions that utilizes the expertise and government-wide perspective of the office of financial management, and that is based upon the model that has been used successfully by the community and technical college system. The new process must emphasize objective analysis, a statewide perspective, and a strategic balance among facility preservation, new construction, and innovative delivery mechanisms. The legislature further recognizes that institutions of higher education are likely to require substantial new capital investments in order to continue to provide a wide range of high quality programs to students and the community, and that the state's ability to provide such resources is constrained by increasing capital expenditure needs within the K-12, public safety, social services, and community economic development arenas. The legislature therefore intends to identify and assess potential alternative means for increasing the capacity of public

higher education institutions to meet the demands of the twenty-first century.

NEW SECTION. Sec. 2. (1) By October 15th of each even-numbered year, the office of financial management shall complete an objective analysis and scoring of all capital budget projects proposed by the public four-year institutions of higher education and submit the results of the scoring process to the legislative fiscal committees, the higher education coordinating board, and the four-year institutions, except that, for 2008, the office of financial management shall complete the objective analysis and scoring by November 1st. Each project must be reviewed and scored within one of the following categories, according to the project's principal purpose. Each project may be scored in only one category. The categories are:

(a) Access-related projects to accommodate enrollment growth at main and branch campuses, at existing or new university centers, or through distance learning. Growth projects should provide significant additional student capacity. Proposed projects must demonstrate that they are based on solid enrollment demand projections, more cost-effectively provide enrollment access than alternatives such as university centers and distance learning, and make cost-effective use of existing and proposed new space;

(b) Projects that replace failing permanent buildings or renovate facilities to restore building life and upgrade space to meet current program requirements. Facilities that cannot be economically renovated are considered replacement projects. Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty-five years of useful life. New space may be programmed for the same or a different use than the space being replaced or renovated and may include additions to improve access and enhance the relationship of program or support space;

(c) Major stand-alone campus infrastructure projects;

(d) Projects that promote economic growth and innovation through expanded research activity. The acquisition and installation of specialized equipment is authorized under this category; and

(e) Other project categories as determined by the office of financial management in consultation with the legislative fiscal committees.

(2) The office of financial management, in consultation with the legislative fiscal committees and the joint legislative audit and review committee, shall establish a scoring system and process for each four-year project category that is based on the framework used in the community and technical college system of prioritization. Staff from the state board for community and technical colleges, the higher education coordinating board, and the four-year institutions shall provide technical assistance on the development of a scoring system and process.

(3) The office of financial management shall consult with the legislative fiscal committees in the scoring of four-year institution project proposals, and may also solicit participation by the joint legislative audit and review committee and independent experts.

(a) For each four-year project category, the scoring system must, at a minimum, include an evaluation of enrollment trends, reasonableness of cost, the ability of the project to enhance specific strategic master plan goals, age and condition of the facility if applicable, and impact on space utilization.

(b) Each four-year project category may include projects at the predesign, design, or construction funding phase.

(c) To the extent possible, the objective analysis and scoring system of all capital budget projects shall occur within the context of any and all performance agreements between the office of financial management and the governing board of a public, four-year institution of higher education that aligns goals, priorities, desired outcomes, flexibility, institutional mission, accountability, and levels of resources.

(4) In evaluating and scoring four-year institution projects, the office of financial management shall take into consideration

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project schedules that result in realistic, balanced, and predictable expenditure patterns over the ensuing three biennia.

(5) The office of financial management shall distribute common definitions, the scoring system, and other information required for the project proposal and scoring process as part of its biennial budget instructions, except that, for the 2009-2011 budget development cycle, this information must be distributed by July 1, 2008. The office of financial management, in consultation with the legislative fiscal committees and the joint legislative audit and review committee, shall develop common definitions that four-year institutions must use in developing their project proposals and lists under this section.

(6) In developing any scoring system for capital projects proposed by the four-year institutions, the office of financial management:

(a) Shall be provided with all required information by the four-year institutions as deemed necessary by the office of financial management;

(b) May utilize independent services to verify, sample, or evaluate information provided to the office of financial management by the four-year institutions; and

(c) Shall have full access to all data maintained by the higher education coordinating board and the joint legislative audit and review committee concerning the condition of higher education facilities.

(7) By August 15th of each even-numbered year, beginning in 2008, each public four-year higher education institution shall prepare and submit prioritized lists of the individual projects proposed by the institution for the ensuing six-year period in each category, except for research institutions which shall prepare two separate prioritized lists in each category, one for the main campus, and one covering all of the institution's branch campuses. The lists must be submitted to the office of financial management and the legislative fiscal committees. The four-year institutions may aggregate minor works project proposals by primary purpose for ranking purposes. Proposed minor works projects must be prioritized within the aggregated proposal, and supporting documentation, including project descriptions and cost estimates, must be provided to the office of financial management and the legislative fiscal committees.

NEW SECTION. Sec. 3. The office of financial management shall submit a higher education capital facility financing study to the governor and the appropriate legislative fiscal committees by December 1, 2008. In designing and conducting the study, the office of financial management shall consult with legislative and fiscal committee leadership, the department of revenue, the state investment board, the higher education coordinating board, the state board for community and technical colleges, and the public four-year institutions of higher education. The study must include:

(1) A review of the methods that are used to fund higher education facility expansion and improvements in other states, with particular emphasis on Washington's global challenge states, and the relative portions of such expenditures that are borne by students, state taxpayers, federal grants, and private contributions;

(2) An examination of alternatives for reducing facility construction and maintenance expenditures per student through strategies such as expansion of distance learning opportunities, increased scheduling of classes during evenings and weekends, the establishment of expected cost benchmarks by facility type, and other means; and

(3) An assessment of the strengths and weaknesses of potential new revenue sources that might be applied to the funding of higher education facilities. These alternative sources must include, but not be limited to, adjusting student fees to support a larger share of the cost of such facilities, bonding against student fee revenues, utilizing local tax revenues to support local higher education capital needs, promoting business participation in the financing of programs strongly linked to area economic development, and other means.

Sec. 4. RCW 28B.76.210 and 2007 c 458 s 202 are each amended to read as follows:

(1) The board shall collaborate with the four-year institutions including the council of presidents, the community

and technical college system, and when appropriate the workforce training and education coordinating board, the superintendent of public instruction, and the independent higher educational institutions to identify budget priorities and levels of funding for higher education, including the two and four-year institutions of higher education and state financial aid programs. It is the intent of the legislature that recommendations from the board reflect not merely the sum of budget requests from multiple institutions, but prioritized funding needs for the overall system of higher education.

(2) By December of each odd-numbered year, the board shall distribute guidelines which outline the board's fiscal priorities to the institutions and the state board for community and technical colleges.

(a) The institutions and the state board for community and technical colleges shall submit an outline of their proposed operating budgets to the board no later than July 1st of each even-numbered year. Pursuant to guidelines developed by the board, operating budget outlines submitted by the institutions and the state board for community and technical colleges after January 1, 2007, shall include all policy changes and enhancements that will be requested by the institutions and the state board for community and technical colleges in their respective biennial budget requests. Operating budget outlines shall include a description of each policy enhancement, the dollar amount requested, and the fund source being requested.

(b) Capital budget outlines for the two-year institutions shall be submitted by August 15th of each even-numbered year, and shall include the prioritized ranking of the capital projects being requested (~~((by two-year and four-year institutions, respectively-)),~~ a description of each capital project, and the amount and fund source being requested (~~(- shall be included for each capital project appearing in the prioritized ranking)).~~

(c) Capital budget outlines for the four-year institutions must be submitted by August 15th of each even-numbered year, and must include: The institutions' priority ranking of the project; the capital budget category within which the project will be submitted to the office of financial management in accordance with section 2 of this act; a description of each capital project; and the amount and fund source being requested.

(d) The office of financial management shall reference these reporting requirements in its budget instructions.

(3) The board shall review and evaluate the operating and capital budget requests from four-year institutions and the community and technical college system based on how the requests align with the board's budget priorities, the missions of the institutions, and the statewide strategic master plan for higher education under RCW 28B.76.200.

(4) The board shall submit recommendations on the proposed (~~(budgets))~~ operating budget and (~~(on the board's budget))~~ priorities to the office of financial management ((before)) by October 1st of each even-numbered year, and to the legislature by January 1st of each odd-numbered year. The board's capital budget recommendations for the community and technical college system and the four-year institutions must be submitted to the office of financial management by November 15th of each even-numbered year and to the legislature by January 1st of each odd-numbered year. The board's recommendations for the four-year institutions must include the relative share of the higher education capital budget that the board recommends be assigned to each project category, as defined in section 2 of this act, and to minor works program and preservation.

(5) Institutions and the state board for community and technical colleges shall submit any supplemental budget requests and revisions to the board at the same time they are submitted to the office of financial management. The board shall submit recommendations on the proposed supplemental budget requests to the office of financial management by November 1st and to the legislature by January 1st.

NEW SECTION. Sec. 5. RCW 28B.76.220 (Prioritized capital project lists for higher education institutions) and 2004 c 275 s 8 & 2003 1st sp.s. c 8 s 2 are each repealed.

NEW SECTION. Sec. 6. Section 2 of this act constitutes a new chapter in Title 43 RCW."

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MOTION

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Senator Fraser moved that the following amendment by Senator Fraser to the committee striking amendment be adopted.

On page 4, line 20, after "category", strike everything down through and including "campuses" on line 23, and insert the following:

" On a pilot basis, the office of financial management shall require one research university to prepare two separate prioritized lists for each category, one for the main campus, and one covering all of the institution's branch campuses. The office of financial management shall report to the legislative fiscal committees by December 1, 2009 on the effect of this pilot project on capital project financing for all branch campuses"

Re-number the sections consecutively and correct any internal references accordingly.

Senator Fraser spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fraser on page 4, line 20 to the committee striking amendment to Engrossed Substitute House Bill No. 3329.

The motion by Senator Fraser carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Engrossed Substitute House Bill No. 3329.

The motion by Senator Fraser carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "requests;" strike the remainder of the title and insert "amending RCW 28B.76.210; adding a new chapter to Title 43 RCW; creating new sections; and repealing RCW 28B.76.220."

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute House Bill No. 3329 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3329 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3329 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3329 as amended by the Senate, having received the constitutional

majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 3360, by Representatives Hasegawa and Santos

Increasing the availability of funds for the time certificate of deposit investment program.

The measure was read the second time.

MOTION

Senator Prentice moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.60A.190 and 2007 c 11 s 1 are each amended to read as follows:

(1) The department shall:

(a) Develop and maintain a current list of veteran-owned businesses; and

(b) Make the list available on the department's public web site.

(2) ~~((In order))~~ To qualify as a veteran-owned business, the business must be at least fifty-one percent owned and controlled by:

(a) A veteran as defined in RCW 41.04.007; or

(b) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.

(3) To participate in the linked deposit program under chapter 43.86A RCW, a veteran-owned business qualified under this section must be certified by the department as a business:

(a) In which the veteran owner possesses and exercises sufficient expertise specifically in the business's field of operation to make decisions governing the long-term direction and the day-to-day operations of the business;

(b) That is organized for profit and performing a commercially useful function; and

(c) That meets the criteria for a small business concern as established under chapter 39.19 RCW.

(4) The department shall create a logo for the purpose of identifying veteran-owned businesses to the public. The department shall put the logo on an adhesive sticker or decal suitable for display in a business window and distribute the stickers or decals to veteran-owned businesses listed with the department.

~~((+))~~ (5)(a) Businesses may submit an application on a form prescribed by the department for inclusion on the list or to apply for certification under this section.

(b) The department must notify the state treasurer of veteran-owned businesses that are no longer certified under this section. The written notification to the state treasurer must contain information regarding the reasons for the decertification and information on financing provided to the veteran-owned business under RCW 43.86A.060.

~~((+))~~ (6) The department may adopt rules necessary to implement this section.

Sec. 2. RCW 43.86A.030 and 2007 c 500 s 1 are each amended to read as follows:

(1) Funds held in public depositories not as demand deposits as provided in RCW 43.86A.020 and 43.86A.030, shall be available for a time certificate of deposit investment program according to the following formula: The state treasurer shall apportion to all participating depositories an amount equal to five percent of the three year average mean of general state revenues as certified in accordance with Article VIII, section 1(b) of the state Constitution, or fifty percent of the total surplus treasury investment availability, whichever is less. Within thirty days after certification, those funds determined to be available

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according to this formula for the time certificate of deposit investment program shall be deposited in qualified public depositories. These deposits shall be allocated among the participating depositories on a basis to be determined by the state treasurer.

(2) Of all funds available under this section, the state treasurer may use up to one hundred ~~((fifty))~~ seventy-five million dollars per year ~~((of all funds available under this section))~~ for the purposes of RCW 43.86A.060(2)(c)(i) and up to fifteen million dollars per year for the purposes of RCW 43.86A.060(2)(c)(ii). The amounts made available to these public depositories shall be equal to the amounts of outstanding loans made under RCW 43.86A.060.

(3) The formula so devised shall be a matter of public record giving consideration to, but not limited to deposits, assets, loans, capital structure, investments or some combination of these factors. However, if in the judgment of the state treasurer the amount of allocation for certificates of deposit as determined by this section will impair the cash flow needs of the state treasury, the state treasurer may adjust the amount of the allocation accordingly.

Sec. 3. RCW 43.86A.060 and 2007 c 500 s 2 are each amended to read as follows:

(1) The state treasurer shall establish a linked deposit program for investment of deposits in qualified public depositories. As a condition of participating in the program, qualified public depositories must make qualifying loans as provided in this section. The state treasurer may purchase a certificate of deposit that is equal to the amount of the qualifying loan made by the qualified public depository or may purchase a certificate of deposit that is equal to the aggregate amount of two or more qualifying loans made by one or more qualified public depositories.

(2) Qualifying loans made under this section are those:

(a) Having terms that do not exceed ten years;

(b) Where an individual loan does not exceed one million dollars;

(c)(i) That are made to a minority or women's business enterprise that has received state certification under chapter 39.19 RCW; or

(ii) That are made to a veteran-owned business that has received state certification under RCW 43.60A.190;

(d) Where the interest rate on the loan to the minority or women's business enterprise or veteran-owned business does not exceed an interest rate that is two hundred basis points below the interest rate the qualified public depository would charge for a loan for a similar purpose and a similar term, except that, if the preference given by the state treasurer to the qualified public depository under subsection (3) of this section is less than two hundred basis points, the qualified public depository may reduce the preference given on the loan by an amount that corresponds to the reduction in preference below two hundred basis points given to the qualified public depository; and

(e) Where the points or fees charged at loan closing do not exceed one percent of the loan amount.

(3) In setting interest rates of time certificate of deposits, the state treasurer shall offer rates so that a two hundred basis point preference will be given to the qualified public depository, except that the treasurer shall lower the amount of the preference to ensure that the effective interest rate on the time certificate of deposit is not less than two percent.

(4) Upon notification by the state treasurer that a minority or women's business enterprise is no longer certified under chapter 39.19 RCW or that a veteran-owned business is no longer certified under RCW 43.60A.190, the qualified public depository shall reduce the amount of qualifying loans by the outstanding balance of the loan made under this section to the minority or women's business enterprise or the veteran-owned business, as applicable.

(5) The office of minority and women's business enterprises has the authority to adopt rules to:

(a) Ensure that when making a qualified loan under the linked deposit program, businesses that have never received a loan under the linked deposit program are given first priority;

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(b) Limit the total principal loan amount that any one business receives in qualified loans under the linked deposit program over the lifetime of the businesses;

(c) Limit the total principal loan amount that an owner of one or more businesses receives in qualified loans under the linked deposit program during the owner's lifetime; and

(d) Limit the total amount of any one qualified loan made under the linked deposit program.

NEW SECTION. Sec. 4. The department of veterans affairs shall report to the governor and appropriate committees of the legislature by December 1, 2008, on the progress made in implementing this act."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed House Bill No. 3360.

The motion by Senator Prentice carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 43.60A.190, 43.86A.030, and 43.86A.060; and creating a new section."

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed House Bill No. 3360 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 3360 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 3360 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 9; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel and Weinstein - 40

Voting nay: Senators Benton, Carrell, Hewitt, Honeyford, Schoesler, Stevens, Swecker, Tom and Zarelli - 9

ENGROSSED HOUSE BILL NO. 3360 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 3362, by Representative Kelley

Providing tax incentives to encourage businesses to purchase highly energy efficient equipment.

The measure was read the second time.

MOTION

Senator Pridemore moved that the following striking amendment by Senator Pridemore be adopted:

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Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that improving energy efficiency is key to achieving the state's goals to reduce greenhouse gas emissions to 1990 levels by 2020. The legislature further finds that increased energy efficiency saves Washington businesses money, which in turn helps the state and local economy, as energy bill savings can be spent on local goods and services. Washington state and federal appliance standards passed since 2005 will produce about eighty thousand metric tons of greenhouse gas emissions savings toward Washington's 2020 target. However, there are a large number of commercial devices on the market that are not subject to those standards. In addition, there are many new products on the market that are much more energy efficient than required by such standards, but because they may be more expensive than standard models, they represent only a small percentage of sales. Most commercial equipment, once purchased, will be in use for ten to fifteen years; therefore, the more energy efficient they are, the greater the energy and cost savings and reductions in climate pollution.

Thus, the legislature intends to enact tax incentives as a means to encourage Washington businesses to purchase certain high efficiency appliances and equipment and to maximize the energy savings opportunity available through increased and sustained market share of those appliances and equipment.

NEW SECTION. Sec. 2. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed in an amount equal to eight and eight-tenths percent multiplied by the purchase price, as defined in RCW 82.12.010, of the following items:

(a) Commercial freezers and refrigerators meeting consortium for energy efficiency tier 2 specifications dated January 1, 2006;

(b) High efficiency commercial clothes washers meeting consortium for energy efficiency specifications dated November 14, 2007;

(c) Commercial ice makers meeting consortium for energy efficiency specifications dated January 1, 2006;

(d) Commercial full-sized gas convection ovens with interior measurements of six cubic feet or larger;

(e) Commercial deep fat fryers which are rated energy star as of August 2003;

(f) Commercial hot food holding cabinets which are rated energy star as of August 2003; and

(g) Commercial electric and gas steam cookers, also known as compartment cookers, which are rated energy star as of August 2003.

(2) A person may not take the credit under this section if the person's gross income of the business in the prior calendar year exceeded seven hundred fifty thousand dollars.

(3) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year. Credit may not be claimed against taxes due for any tax reporting period ending before the credit was earned. No refunds shall be granted for credits under this section.

(4) Credits are available on a first-in-time basis. The department shall disallow any credits, or portion thereof, that would cause the total amount of credits claimed statewide under this section in any year to exceed seven hundred fifty thousand dollars. If the seven hundred fifty thousand dollar limitation is reached, the department shall provide written notice to any person that has claimed tax credits after the seven hundred fifty thousand dollar limitation in this subsection has been met. The notice shall indicate the amount of tax due and shall provide that the tax be paid within thirty days from the date of such notice. The department may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(5) The department of community, trade, and economic development must prepare and deliver a report to the legislature no later than December 30, 2010, assessing the overall energy and cost saving impacts of this section.

(6) Credit may not be claimed under this section for the purchase of an item, listed in subsection (1) of this section, before the effective date of this section.

(7) Credit may not be claimed under this section for the purchase of an item, listed in subsection (1) of this section, after June 30, 2010.

(8) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a)(i) "Commercial refrigerators and freezers" means refrigerators, freezers, or refrigerator-freezers designed for use by commercial or institutional facilities for the purpose of storing or merchandising food products, beverages, or ice at specified temperatures that: (A) Incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single cabinet; and (B) may be configured with either solid or transparent doors as a reach-in cabinet, pass-through cabinet, roll-in cabinet, or roll-through cabinet.

(ii) "Commercial refrigerators and freezers" does not include: (A) Products with eighty-five cubic feet or more of internal volume; (B) walk-in refrigerators or freezers; (C) consumer products that are federally regulated pursuant to Title 42 U.S.C. Sec. 6291 et seq.; (D) products without doors; or (E) freezers specifically designed for ice cream.

(b) "Commercial clothes washer" means a soft mount horizontal or vertical-axis clothes washer that: (i) Has a clothes container compartment no greater than three and one-half cubic feet in the case of a horizontal-axis product or no greater than four cubic feet in the case of a vertical-axis product; and (ii) is designed for use by more than one household, such as in multifamily housing, apartments, or coin laundries.

(c) "Commercial hot food holding cabinet" means an appliance that is designed to hold hot food at a specified temperature, which has been cooked using a separate appliance.

(d) "Commercial ice maker" means a factory-made assembly, not necessarily shipped in one package, consisting of a condensing unit and ice-making section operating as an integrated unit with means for making and harvesting ice. It may also include integrated components for storing or dispensing ice, or both.

(e) "Commercial open, deep-fat fryer" means an appliance, including a cooking vessel, in which oil is placed to such a depth that the cooking food is essentially supported by displacement of the cooking fluid rather than by the bottom of the vessel. Heat is delivered to the cooking fluid by means of an immersed electric element or band-wrapped vessel (electric fryers), or by heat transfer from gas burners through either the walls of the fryer or through tubes passing through the cooking fluid (gas fryers).

(f) "Consortium" means the consortium for energy efficiency, a United States nonprofit public benefits corporation that promotes the manufacture and purchase of energy efficient products and services. The consortium's members include utilities, statewide and regional market transformation administrators, environmental groups, research organizations, and state energy offices in the United States and Canada.

(g) "Energy star" is an energy efficient product that meets the federal environmental protection agency's and federal department of energy's criteria for use of the energy star trademark label, or is in the upper twenty-five percent of efficiency for all similar products as designated by the federal energy management program. Energy star is a voluntary labeling program designed to identify and promote energy efficient products to reduce greenhouse gas emissions.

(h) "Steam cooker" means a device with one or more food steaming compartments, in which the energy in the steam is transferred to the food by direct contact. Models may include countertop models, wall-mounted models, and floor models mounted on a stand, pedestal, or cabinet-style base.

NEW SECTION. Sec. 3. This act takes effect July 1, 2008.

NEW SECTION. Sec. 4. This act expires July 1, 2010."

Senator Pridemore spoke in favor of adoption of the striking amendment.

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The President declared the question before the Senate to be the adoption of the striking amendment by Senator Pridemore to House Bill No. 3362.

The motion by Senator Pridemore carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "equipment;" strike the remainder of the title and insert "adding a new section to chapter 82.04 RCW; creating a new section; providing an effective date; and providing an expiration date."

MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 3362 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3362 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3362 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

HOUSE BILL NO. 3362 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

The Senate resumed consideration of Engrossed Substitute Senate Bill No. 5831.

MOTION

Senator Kohl-Welles moved that the Senate insist on its position in the House amendment(s) to Engrossed Substitute Senate Bill No. 5831 and requests of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Kohl-Welles that the Senate insist on its position in the House amendment(s) to Engrossed Substitute Senate Bill No. 5831 and request of the House a conference thereon.

The motion by Senator Kohl-Welles carried and the Senate insisted on its position in the House amendment(s) to Engrossed Substitute Senate Bill No. 5831 and requested of the House a conference thereon.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute Senate Bill No. 5831 and the House amendment(s) there to: Senators Kohl-Welles, Keiser, King.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3374, by House Committee on Capital Budget (originally sponsored by Representatives Fromhold, McDonald, VanDeWege, Alexander and DeBolt)

Concerning state general obligation bonds for flood mitigation and facilities for career and technical education.

The measure was read the second time.

MOTION

Senator Fraser moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

"PART 1

NEW SECTION. Sec. 101. For the purpose of providing state funds for federally matched flood hazard mitigation and other projects throughout the Chehalis river basin, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of fifty million dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

NEW SECTION. Sec. 102. The proceeds from the sale of the bonds authorized in section 101 of this act shall be deposited in the state building construction account created by RCW 43.83.020. If the state finance committee deems it necessary to issue taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposits otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. These proceeds shall be used exclusively for the purposes specified in section 101 of this act and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management subject to legislative appropriation.

NEW SECTION. Sec. 103. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in section 101 of this act.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in

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the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. Sec. 104. (1) Bonds issued under section 101 of this act shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

NEW SECTION. Sec. 105. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 101 of this act, and section 103 of this act shall not be deemed to provide an exclusive method for the payment.

NEW SECTION. Sec. 106. The bonds authorized in section 101 of this act shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

PART 2

NEW SECTION. Sec. 201. The legislature finds that the state's public schools and skill centers are a vital component of the future economic prosperity of our state and provide students with access to high-quality academic and technical skills instruction. Skill centers challenge, motivate, and provide opportunities for students to achieve in basic skills, critical thinking, leadership, and work skills through hands-on education, applied academics, and technology training using a cost-effective delivery model. The legislature further finds that barriers to access exist for students in rural and high-density areas, but the development of satellite and branch campus programs will provide the needed access. The legislature further finds that existing and proposed new skill centers will require facilities and equipment that simulate business and industry. Therefore, it is the intent of the legislature to provide a new source of funding for the critical capital needs of the state's skill centers to enhance access to career and technical education opportunities and to improve the condition of existing facilities. Enhanced capital funding will provide skill centers the ability to fulfill their critical role in maintaining and stimulating the state's economy and expanding quality academic and career and technical education opportunities to more students, especially students who lack access to these programs to date.

In the interest of funding equity and ensuring a commitment to the new development, major renovation, or expansion of skill centers, all school district partners must contribute to the acquisition or major capital costs of skill center projects supported by this act to the greatest extent feasible.

NEW SECTION. Sec. 202. For the purpose of providing school construction assistance grants and needed capital improvements consisting of the predesign, design, acquisition, construction, modification, renovation, expansion, equipping, and other improvements of skill centers facilities, including capital improvements to support satellite or branch campus programs for underserved rural areas or high-density areas, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred million dollars, or as much thereof as may be required, to finance all or a part of these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. If the state finance committee deems it necessary to issue taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of

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nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposits otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary.

NEW SECTION. Sec. 203. This chapter is not intended to limit the legislature's ability to appropriate bond proceeds if the full amount authorized in this chapter has not been appropriated after one biennia, and the authorization to issue bonds contained in this chapter does not expire until the full authorization has been appropriated and issued.

NEW SECTION. Sec. 204. (1) The proceeds from the sale of the bonds authorized in section 202 of this act shall be deposited in the school construction and skill centers building account created in section 210 of this act.

(2) The proceeds shall be used exclusively for the purposes stated in section 202 of this act and for the payment of the expenses incurred in connection with the sale and issuance of the bonds.

NEW SECTION. Sec. 205. (1) The nondebt-limit reimbursable bond retirement account must be used for the payment of the principal and interest on the bonds authorized in section 202 of this act.

(2)(a) The state finance committee must, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in section 202 of this act.

(b) On or before the date on which any interest or principal and interest is due, the state treasurer shall transfer from that portion of the common school construction fund derived from the interest on the permanent common school fund into the nondebt-limit reimbursable bond retirement account the amount computed in (a) of this subsection for bonds issued for the purposes of section 202 of this act. Any deficiency in such transfer shall be made up as soon as moneys are available for transfer and shall constitute a continuing obligation of that portion of the common school construction fund derived from the interest on the permanent common school fund until all deficiencies are fully paid.

NEW SECTION. Sec. 206. (1) Bonds issued under section 202 of this act shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

NEW SECTION. Sec. 207. The bonds authorized in section 202 of this act shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

NEW SECTION. Sec. 208. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 202 of this act, and section 202 of this act shall not be deemed to provide an exclusive method for the payment.

NEW SECTION. Sec. 209. This chapter provides a complete, additional, and alternative method for accomplishing the purposes of this chapter and is supplemental and additional to powers conferred by other laws. The issuance of bonds under this chapter shall not be deemed to be the only method to fund projects under this chapter.

NEW SECTION. Sec. 210. The school construction and skill centers building account is created in the state treasury. Proceeds from the bonds issued under section 202 of this act shall be deposited in the account. The account shall be used for purposes stated in section 202 of this act. Moneys in the account may be spent only after appropriation.

PART 3

Sec. 301. RCW 39.42.060 and 2003 c 147 s 13 are each amended to read as follows:

No bonds, notes, or other evidences of indebtedness for borrowed money shall be issued by the state which will cause the aggregate debt contracted by the state to exceed that amount for which payments of principal and interest in any fiscal year would require the state to expend more than seven percent of the arithmetic mean of its general state revenues, as defined in RCW 39.42.070, for the three immediately preceding fiscal years as certified by the treasurer in accordance with RCW 39.42.070. It shall be the duty of the state finance committee to compute annually the amount required to pay principal of and interest on outstanding debt. In making such computation, the state finance committee shall include all borrowed money represented by bonds, notes, or other evidences of indebtedness which are secured by the full faith and credit of the state or are required to be paid, directly or indirectly, from general state revenues and which are incurred by the state, any department, authority, public corporation or quasi public corporation of the state, any state university or college, or any other public agency created by the state but not by counties, cities, towns, school districts, or other municipal corporations, and shall include debt incurred pursuant to section 3 of Article VIII of the Washington state Constitution, but shall exclude the following:

- (1) Obligations for the payment of current expenses of state government;
- (2) Indebtedness incurred pursuant to RCW 39.42.080 or 39.42.090;
- (3) Principal of and interest on bond anticipation notes;
- (4) Any indebtedness which has been refunded;
- (5) Financing contracts entered into under chapter 39.94 RCW;
- (6) Indebtedness authorized or incurred before July 1, 1993, pursuant to statute which requires that the state treasury be reimbursed, in the amount of the principal of and the interest on such indebtedness, from money other than general state revenues or from the special excise tax imposed pursuant to chapter 67.40 RCW;
- (7) Indebtedness authorized and incurred after July 1, 1993, pursuant to statute that requires that the state treasury be reimbursed, in the amount of the principal of and the interest on such indebtedness, from (a) moneys outside the state treasury, except higher education operating fees, (b) higher education building fees, (c) indirect costs recovered from federal grants and contracts, and (d) fees and charges associated with hospitals operated or managed by institutions of higher education;
- (8) Any agreement, promissory note, or other instrument entered into by the state finance committee under RCW 39.42.030 in connection with its acquisition of bond insurance, letters of credit, or other credit support instruments for the purpose of guaranteeing the payment or enhancing the marketability, or both, of any state bonds, notes, or other evidence of indebtedness;
- (9) Indebtedness incurred for the purposes identified in RCW 43.99N.020;
- (10) Indebtedness incurred for the purposes of the school district bond guaranty established by chapter 39.98 RCW;
- (11) Indebtedness incurred for the purposes of replacing the waterproof membrane over the east plaza garage and revising related landscaping construction pursuant to RCW 43.99Q.070;
- (12) Indebtedness incurred for the purposes of the state legislative building rehabilitation, to the extent that principal and interest payments of such indebtedness are paid from the capitol building construction account pursuant to RCW 43.99Q.140(2)(b); ~~(and)~~
- (13) Indebtedness incurred for the purposes of financing projects under RCW 47.10.867; and
- (14) Indebtedness incurred for the purposes of school construction assistance grants and capital improvements for skill centers under section 202 of this act.

To the extent necessary because of the constitutional or statutory debt limitation, priorities with respect to the issuance or guaranteeing of bonds, notes, or other evidences of

indebtedness by the state shall be determined by the state finance committee.

Sec. 302. RCW 28A.245.030 and 2007 c 463 s 4 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall review and revise the guidelines for skill centers to encourage skill center programs. The superintendent, in cooperation with the workforce training and education coordinating board, skill center directors, and the Washington association for career and technical education, shall review and revise the existing skill centers' policy guidelines and create and adopt rules governing skill centers as follows:

(a) The threshold enrollment at a skill center shall be revised so that a skill center program need not have a minimum of seventy percent of its students enrolled on the skill center core campus in order to facilitate serving rural students through expansion of skill center programs by means of satellite programs or branch campuses;

(b) The developmental planning for branch campuses shall be encouraged. Underserved rural areas or high-density areas may partner with an existing skill center to create satellite programs or a branch campus. Once a branch campus reaches sufficient enrollment to become self-sustaining, it may become a separate skill center or remain an extension of the founding skill center; and

(c) Satellite and branch campus programs shall be encouraged to address high-demand fields.

(2) Rules adopted under this section shall allow for innovative models of satellite and branch campus programs, and such programs shall not be limited to those housed in physical buildings.

(3) The superintendent of public instruction shall develop and deliver a ten-year capital plan for legislative review before implementation. The superintendent of public instruction shall adopt rules that set as a goal a ten percent minimum local project contribution threshold for major skill center projects, unless there is a compelling rationale not to do so, including but not limited to local economic conditions, as determined by the superintendent of public instruction. This applies to the acquisition or major capital costs of skill center projects as outlined in the ten-year capital plan.

(4) Subject to available funding, the superintendent shall:

(a) Conduct approved feasibility studies for serving noncooperative rural and high-density area students in their geographic areas; and

(b) Develop a statewide master plan that identifies standards and resources needed to create a technology infrastructure for connecting all skill centers to the K-20 network.

NEW SECTION. Sec. 303. Sections 101 through 106 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 304. Sections 201 through 210 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. Sec. 305. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 306. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 307. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 3374.

The motion by Senator Fraser carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

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On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "state general obligation bonds for flood hazard mitigation projects and school facilities; amending RCW 39.42.060 and 28A.245.030; adding a new chapter to Title 43 RCW; adding a new chapter to Title 28A RCW; creating a new section; and declaring an emergency."

MOTION

On motion of Senator Fraser, the rules were suspended, Substitute House Bill No. 3374 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3374 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3374 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 2; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 43

Voting nay: Senators Holmquist, Parlette, Pflug and Schoesler - 4

Absent: Senators Kline and Oemig - 2

SUBSTITUTE HOUSE BILL NO. 3374 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 3375, by Representatives Alexander, Hunt, VanDeWege, DeBolt, Takko and Blake

Appropriating funds for catastrophic flood relief.

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, House Bill No. 3375 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Swecker spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senators Kline and McAuliffe were excused.

The President declared the question before the Senate to be the final passage of House Bill No. 3375.

ROLL CALL

The Secretary called the roll on the final passage of House

Bill No. 3375 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Kline and McAuliffe - 2

HOUSE BILL NO. 3375, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6628, by Senators Prentice, Fairley and Rasmussen

Clarifying the state's ability to recover from defendants the cost of mental health treatment provided at state hospitals.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Senate Bill No. 6628 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6628.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6628 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Kline - 1

SENATE BILL NO. 6628, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6629, by Senators Franklin and Prentice

Making clarifications to the nursing facility medicaid payment system in relation to the use of minimum occupancy in setting cost limits and application of the statewide average payment rate specified in the biennial appropriations act.

The measure was read the second time.

MOTION

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Senator Keiser moved that the following striking amendment by Senator Keiser be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.46.421 and 2001 1st sp.s. c 8 s 4 are each amended to read as follows:

(1) The purpose of part E of this chapter is to determine nursing facility medicaid payment rates that, in the aggregate for all participating nursing facilities, are in accordance with the biennial appropriations act.

(2)(a) The department shall use the nursing facility medicaid payment rate methodologies described in this chapter to determine initial component rate allocations for each medicaid nursing facility.

(b) The initial component rate allocations shall be subject to adjustment as provided in this section in order to assure that the statewide average payment rate to nursing facilities is less than or equal to the statewide average payment rate specified in the biennial appropriations act.

(3) Nothing in this chapter shall be construed as creating a legal right or entitlement to any payment that (a) has not been adjusted under this section or (b) would cause the statewide average payment rate to exceed the statewide average payment rate specified in the biennial appropriations act.

(4)(a) The statewide average payment rate for any state fiscal year under the nursing facility payment system, weighted by patient days, shall not exceed the annual statewide weighted average nursing facility payment rate identified for that fiscal year in the biennial appropriations act.

(b) If the department determines that the weighted average nursing facility payment rate calculated in accordance with this chapter is likely to exceed the weighted average nursing facility payment rate identified in the biennial appropriations act, then the department shall adjust all nursing facility payment rates proportional to the amount by which the weighted average rate allocations would otherwise exceed the budgeted rate amount. Any such adjustments for the current fiscal year shall only be made prospectively, not retrospectively, and shall be applied proportionately to each component rate allocation for each facility.

(c) If any final order or final judgment, including a final order or final judgment resulting from an adjudicative proceeding or judicial review permitted by chapter 34.05 RCW, would result in an increase to a nursing facility's payment rate for a prior fiscal year or years, the department shall consider whether the increased rate for that facility would result in the statewide weighted average payment rate for all facilities for such fiscal year or years to be exceeded. If the increased rate would result in the statewide average payment rate for such year or years being exceeded, the department shall increase that nursing facility's payment rate to meet the final order or judgment only to the extent that it does not result in an increase to the statewide weighted average payment rate for all facilities.

Sec. 2. RCW 74.46.431 and 2007 c 508 s 2 are each amended to read as follows:

(1) Effective July 1, 1999, nursing facility medicaid payment rate allocations shall be facility-specific and shall have seven components: Direct care, therapy care, support services, operations, property, financing allowance, and variable return. The department shall establish and adjust each of these components, as provided in this section and elsewhere in this chapter, for each medicaid nursing facility in this state.

(2) Component rate allocations in therapy care, support services, variable return, operations, property, and financing allowance for essential community providers as defined in this chapter shall be based upon a minimum facility occupancy of eighty-five percent of licensed beds, regardless of how many beds are set up or in use. For all facilities other than essential community providers, effective July 1, 2001, component rate allocations in direct care, therapy care, support services, and variable return (~~(operations, property, and financing allowance)~~) shall ~~((continue to))~~ be based upon a minimum facility occupancy of eighty-five percent of licensed beds. For all facilities other than essential community providers, effective July 1, 2002, the component rate allocations in operations,

property, and financing allowance shall be based upon a minimum facility occupancy of ninety percent of licensed beds, regardless of how many beds are set up or in use. For all facilities, effective July 1, 2006, the component rate allocation in direct care shall be based upon actual facility occupancy. The median cost limits used to set component rate allocations shall be based on the applicable minimum occupancy percentage. In determining each facility's therapy care component rate allocation under RCW 74.46.511, the department shall apply the applicable minimum facility occupancy adjustment before creating the array of facilities' adjusted therapy costs per adjusted resident day. In determining each facility's support services component rate allocation under RCW 74.46.515(3), the department shall apply the applicable minimum facility occupancy adjustment before creating the array of facilities' adjusted support services costs per adjusted resident day. In determining each facility's operations component rate allocation under RCW 74.46.521(3), the department shall apply the minimum facility occupancy adjustment before creating the array of facilities' adjusted general operations costs per adjusted resident day.

(3) Information and data sources used in determining medicaid payment rate allocations, including formulas, procedures, cost report periods, resident assessment instrument formats, resident assessment methodologies, and resident classification and case mix weighting methodologies, may be substituted or altered from time to time as determined by the department.

(4)(a) Direct care component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, direct care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2006, direct care component rate allocations. Adjusted cost report data from 2003 will be used for July 1, 2006, through June 30, 2007, direct care component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, direct care component rate allocations. Effective July 1, 2009, the direct care component rate allocation shall be rebased biennially, and thereafter for each odd-numbered year beginning July 1st, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, 2011, and so forth.

(b) Direct care component rate allocations based on 1996 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in RCW 74.46.506(5)(i).

(c) Direct care component rate allocations based on 1999 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in RCW 74.46.506(5)(i).

(d) Direct care component rate allocations based on 2003 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 2006, rate, as provided in RCW 74.46.506(5)(i).

(e) Direct care component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(5)(a) Therapy care component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 will be used for

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October 1, 1998, through June 30, 2001, therapy care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2005, therapy care component rate allocations. Adjusted cost report data from 1999 will continue to be used for July 1, 2005, through June 30, 2007, therapy care component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, therapy care component rate allocations. Effective July 1, 2009, and thereafter for each odd-numbered year beginning July 1st, the therapy care component rate allocation shall be cost rebased biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, 2011, and so forth.

(b) Therapy care component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(6)(a) Support services component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, support services component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2005, support services component rate allocations. Adjusted cost report data from 1999 will continue to be used for July 1, 2005, through June 30, 2007, support services component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, support services component rate allocations. Effective July 1, 2009, and thereafter for each odd-numbered year beginning July 1st, the support services component rate allocation shall be cost rebased biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, 2011, and so forth.

(b) Support services component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(7)(a) Operations component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, operations component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2006, operations component rate allocations. Adjusted cost report data from 2003 will be used for July 1, 2006, through June 30, 2007, operations component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, operations component rate allocations. Effective July 1, 2009, and thereafter for each odd-numbered year beginning July 1st, the operations component rate allocation shall be cost rebased biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, 2011, and so forth.

(b) Operations component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose operations component rate is set equal to their adjusted June 30, 2006, rate, as provided in RCW 74.46.521(4).

(8) For July 1, 1998, through September 30, 1998, a facility's property and return on investment component rates shall be the facility's June 30, 1998, property and return on investment component rates, without increase. For October 1, 1998, through June 30, 1999, a facility's property and return on investment component rates shall be rebased utilizing 1997 adjusted cost report data covering at least six months of data.

(9) Total payment rates under the nursing facility medicare payment system shall not exceed facility rates charged to the general public for comparable services.

(10) Medicaid contractors shall pay to all facility staff a minimum wage of the greater of the state minimum wage or the federal minimum wage.

(11) The department shall establish in rule procedures, principles, and conditions for determining component rate allocations for facilities in circumstances not directly addressed by this chapter, including but not limited to: The need to prorate inflation for partial-period cost report data, newly constructed facilities, existing facilities entering the medicare program for the first time or after a period of absence from the program, existing facilities with expanded new bed capacity, existing medicare facilities following a change of ownership of the nursing facility business, facilities banking beds or converting beds back into service, facilities temporarily reducing the number of set-up beds during a remodel, facilities having less than six months of either resident assessment, cost report data, or both, under the current contractor prior to rate setting, and other circumstances.

(12) The department shall establish in rule procedures, principles, and conditions, including necessary threshold costs, for adjusting rates to reflect capital improvements or new requirements imposed by the department or the federal government. Any such rate adjustments are subject to the provisions of RCW 74.46.421.

(13) Effective July 1, 2001, medicare rates shall continue to be revised downward in all components, in accordance with department rules, for facilities converting banked beds to active service under chapter 70.38 RCW, by using the facility's increased licensed bed capacity to recalculate minimum occupancy for rate setting. However, for facilities other than essential community providers which bank beds under chapter 70.38 RCW, after May 25, 2001, medicare rates shall be revised upward, in accordance with department rules, in direct care, therapy care, support services, and variable return components only, by using the facility's decreased licensed bed capacity to recalculate minimum occupancy for rate setting, but no upward revision shall be made to operations, property, or financing allowance component rates. The direct care component rate allocation shall be adjusted, without using the minimum occupancy assumption, for facilities that convert banked beds to active service, under chapter 70.38 RCW, beginning on July 1, 2006. Effective July 1, 2007, component rate allocations for direct care shall be based on actual patient days regardless of whether a facility has converted banked beds to active service.

(14) Facilities obtaining a certificate of need or a certificate of need exemption under chapter 70.38 RCW after June 30, 2001, must have a certificate of capital authorization in order for (a) the depreciation resulting from the capitalized addition to be included in calculation of the facility's property component rate allocation; and (b) the net invested funds associated with the capitalized addition to be included in calculation of the facility's financing allowance rate allocation.

Sec. 3. RCW 74.46.511 and 2007 c 508 s 4 are each amended to read as follows:

(1) The therapy care component rate allocation corresponds to the provision of medicare one-on-one therapy provided by a qualified therapist as defined in this chapter, including therapy supplies and therapy consultation, for one day for one medicare resident of a nursing facility. The therapy care component rate allocation for October 1, 1998, through June 30, 2001, shall be based on adjusted therapy costs and days from calendar year 1996. The therapy component rate allocation for July 1, 2001, through June 30, 2007, shall be based on adjusted therapy costs and days from calendar year 1999. Effective July 1, 2007, the therapy care component rate allocation shall be based on adjusted therapy costs and days as described in RCW 74.46.431(5). The therapy care component rate shall be adjusted for economic trends and conditions as specified in RCW 74.46.431(5), and shall be determined in accordance with this section. In determining each facility's therapy care component rate allocation, the department shall apply the applicable minimum facility occupancy adjustment before creating the array of facilities' adjusted therapy care costs per adjusted resident day.

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(2) In rebasing, as provided in RCW 74.46.431(5)(a), the department shall take from the cost reports of facilities the following reported information:

(a) Direct one-on-one therapy charges for all residents by payer including charges for supplies;

(b) The total units or modules of therapy care for all residents by type of therapy provided, for example, speech or physical. A unit or module of therapy care is considered to be fifteen minutes of one-on-one therapy provided by a qualified therapist or support personnel; and

(c) Therapy consulting expenses for all residents.

(3) The department shall determine for all residents the total cost per unit of therapy for each type of therapy by dividing the total adjusted one-on-one therapy expense for each type by the total units provided for that therapy type.

(4) The department shall divide medicaid nursing facilities in this state into two peer groups:

(a) Those facilities located within urban counties; and

(b) Those located within nonurban counties.

The department shall array the facilities in each peer group from highest to lowest based on their total cost per unit of therapy for each therapy type. The department shall determine the median total cost per unit of therapy for each therapy type and add ten percent of median total cost per unit of therapy. The cost per unit of therapy for each therapy type at a nursing facility shall be the lesser of its cost per unit of therapy for each therapy type or the median total cost per unit plus ten percent for each therapy type for its peer group.

(5) The department shall calculate each nursing facility's therapy care component rate allocation as follows:

(a) To determine the allowable total therapy cost for each therapy type, the allowable cost per unit of therapy for each type of therapy shall be multiplied by the total therapy units for each type of therapy;

(b) The medicaid allowable one-on-one therapy expense shall be calculated taking the allowable total therapy cost for each therapy type times the medicaid percent of total therapy charges for each therapy type;

(c) The medicaid allowable one-on-one therapy expense for each therapy type shall be divided by total adjusted medicaid days to arrive at the medicaid one-on-one therapy cost per patient day for each therapy type;

(d) The medicaid one-on-one therapy cost per patient day for each therapy type shall be multiplied by total adjusted patient days for all residents to calculate the total allowable one-on-one therapy expense. The lesser of the total allowable therapy consultant expense for the therapy type or a reasonable percentage of allowable therapy consultant expense for each therapy type, as established in rule by the department, shall be added to the total allowable one-on-one therapy expense to determine the allowable therapy cost for each therapy type;

(e) The allowable therapy cost for each therapy type shall be added together, the sum of which shall be the total allowable therapy expense for the nursing facility;

(f) The total allowable therapy expense will be divided by the greater of adjusted total patient days from the cost report on which the therapy expenses were reported, or patient days at eighty-five percent occupancy of licensed beds. The outcome shall be the nursing facility's therapy care component rate allocation.

(6) The therapy care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

(7) The therapy care component rate shall be suspended for medicaid residents in qualified nursing facilities designated by the department who are receiving therapy paid by the department outside the facility daily rate under RCW 74.46.508(2).

Sec. 4. RCW 74.46.515 and 2001 1st sp.s. c 8 s 12 are each amended to read as follows:

(1) The support services component rate allocation corresponds to the provision of food, food preparation, dietary, housekeeping, and laundry services for one resident for one day.

(2) Beginning October 1, 1998, the department shall determine each medicaid nursing facility's support services

component rate allocation using cost report data specified by RCW 74.46.431(6).

(3) To determine each facility's support services component rate allocation, the department shall:

(a) Array facilities' adjusted support services costs per adjusted resident day, as determined by dividing each facility's total allowable support services costs by its adjusted resident days for the same report period, increased if necessary to a minimum occupancy provided by RCW 74.46.431(2), for each facility from facilities' cost reports from the applicable report year, for facilities located within urban counties, and for those located within nonurban counties and determine the median adjusted cost for each peer group;

(b) Set each facility's support services component rate at the lower of the facility's per resident day adjusted support services costs from the applicable cost report period or the adjusted median per resident day support services cost for that facility's peer group, either urban counties or nonurban counties, plus ten percent; and

(c) Adjust each facility's support services component rate for economic trends and conditions as provided in RCW 74.46.431(6).

(4) The support services component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

NEW SECTION. Sec. 5. The legislature clarifies the enactment of chapter 8, Laws of 2001 1st sp. sess. and intends this act be curative, remedial, and retrospectively applicable to July 1, 1998."

Senator Keiser spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Keiser to Senate Bill No. 6629.

The motion by Senator Keiser carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 4 of the title, after "act;" strike the remainder of the title and insert "amending RCW 74.46.421, 74.46.431, 74.46.511, and 74.46.515; and creating a new section."

MOTION

On motion of Senator Franklin, the rules were suspended, Engrossed Senate Bill No. 6629 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Franklin spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6629.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6629 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton,

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Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SENATE BILL NO. 6629, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2542, by Representative Ericks

Providing for the enforcement of cigarette taxes through regulation of stamped and unstamped cigarettes.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2542 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2542.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2542 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Zarelli - 48

Absent: Senator Weinstein - 1

HOUSE BILL NO. 2542, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2544, by Representatives Hunter, Orcutt, Ericks, Moeller, Ormsby, McIntire, Kenney and Conway

Concerning tax exemptions for temporary medical housing provided by health or social welfare organizations.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2544 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2544.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2544 and the bill passed the Senate by the following

vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

HOUSE BILL NO. 2544, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2678, by Representatives Kessler, VanDeWege, Blake, Williams and McIntire

Restoring the preferential timber industry business and occupation tax rate to the manufacture of environmentally responsible surface material products from recycled paper.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2678 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2678.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2678 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Zarelli - 48

Voting nay: Senator Weinstein - 1

HOUSE BILL NO. 2678, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE CONCURRENT RESOLUTION NO. 4408, by House Committee on Higher Education (originally sponsored by Representatives Wallace, Haigh and Sells)

Requesting approval of the statewide strategic master plan for higher education.

The measure was read the second time.

MOTION

Senator Kilmer moved that the following committee striking amendment by the Committee on Higher Education be adopted.

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Strike everything beginning with line 1 and insert the following:

"WHEREAS, Washington State is an economic leader in a globally competitive environment where human capital is becoming the prime currency; and

WHEREAS, The legislature wishes to craft a vision for our education system that truly nurtures and develops each person to realize their limitless potential; and

WHEREAS, Postsecondary education is the crowning jewel in our state's human capital development plan and it is the legislature's intent to focus on the long-term goal of providing the necessary levels of education to our residents required to catapult Washington into global educational leadership; and

WHEREAS, This goal of providing the necessary levels of education will necessitate development of creative and visionary approaches to educational reform that include financing and revenue reform and implementation strategies to overcome the challenges in simultaneously funding all of the state's legitimate needs; and

WHEREAS, The higher education coordinating board is charged under RCW 28B.76.200 with developing a statewide strategic master plan for higher education, encompassing all sectors including the two-year system, workforce training, the four-year institutions of higher education, and financial aid; and

WHEREAS, The legislature enacted chapter 458, Laws of 2007, requiring the strategic master plan to present a vision, measurable goals, and priorities spanning a ten-year period of time, with strategies for expanding access, affordability, quality, efficiency, and accountability; and

WHEREAS, The legislature supports taking the steps needed to implement this vision of global educational leadership and supports the incremental steps proposed in the strategic master plan to improve our higher education system so as not to fall behind the rest of the world as other countries rush to confront the same challenges; and

WHEREAS, The legislature supports the short-term goals and policies embedded in the master plan that would create a higher education system grounded in equality, access, affordability, and accountability as well as promote economic growth and innovation; and

WHEREAS, The legislature will continue to look at ways to improve Washington's system of higher education; and

WHEREAS, The law provides that the legislature shall by concurrent resolution approve or recommend changes to the plan, following public hearings, after which the board shall incorporate legislative changes and adopt a final plan by June of the year in which the legislature passes the concurrent resolution; and

WHEREAS, The higher education coordinating board, from February through November 2007, conducted regular public meetings of the board and the board's advisory council and in fall 2007 organized public forums and focus group meetings around the state bringing educational, business, and community leaders together to engage stakeholders and the public in developing ideas for the strategic master plan; and

WHEREAS, The higher education coordinating board received input for the plan from a wide range of perspectives through presentations provided by leaders from the legislature, business, public and independent baccalaureate institutions of higher education, community and technical colleges, workforce training agencies, the common school system, and representatives of the governor, students, faculty, and communities of color, economists, and other experts; and

WHEREAS, The final report issued by Washington Learns called for a world-class, learner-focused seamless educational system from preschool through higher education and articulated a vision for the improvement of educational attainment at all levels of educational system in the state of Washington, a vision that lies at the heart of the proposed 2008 update of the master plan submitted by the higher education coordinating board; and

WHEREAS, The higher education coordinating board finds that while many of the world's developed nations have made huge gains in the educational attainment levels of their populations, the United States has not and Washingtonians aged

twenty-five to thirty-four actually are less well-educated than Washingtonians aged forty-five to fifty-four; and

WHEREAS, Demographic projections indicate the population of Washington will grow thirty-seven percent by the year 2030 while the state's population simultaneously becomes much more diverse; and

WHEREAS, Over seventy percent of the workforce of the year 2030 is currently employed, and many will be required to upgrade their skills to keep up with technological and other workplace changes; and

WHEREAS, One out of four people aged eighteen to twenty-four does not have a high school diploma and Washington's undereducated working population is equal in size to its next ten high school graduating classes; and

WHEREAS, Global competition, process automation, the increased pace of technological change, and the progressively shortened life span of many products has and will continue to result in worker layoffs, and laid-off workers will need to retool their skills in order to be reemployed; and

WHEREAS, Our growing economy also depends on a skilled workforce including workers who have completed certificates, associate degrees, and apprenticeship programs; and

WHEREAS, Washington must attract annually to the state over thirty-six thousand people who hold at least a bachelor's degree in order to fill the jobs being created by the state's economy, a net in-migration of highly educated workers second among Washington's Global Challenge State peers, behind only California, which attracts about thirty-nine thousand similarly educated people annually; and

WHEREAS, Depending on other states and nations to provide educational attainment levels necessary to fill the best jobs being created in Washington may not be a sustainable economic strategy and misses the opportunity to prepare Washington residents for some of the best jobs being created by Washington's economy; and

WHEREAS, The higher education coordinating board recommends creating opportunities for Washington residents and fueling the growth of Washington's economy by increasing annual production of certificates and two-year degrees to an annual total of thirty-six thousand two hundred by 2018 and recommends increasing bachelor's degree production by 2018 to a benchmark level equal to the seventy-fifth percentile of degree production in the Global Challenge States and increasing advanced degree production to a benchmark level equal to the fiftieth percentile of degree production in the Global Challenge States; and

WHEREAS, The proposed master plan update recommends raising educational attainment by addressing diversity, raising expectations in the common school system, promoting lifelong learning and improving affordable access, and recommends a series of strategies for promoting economic growth, innovation, and funding for accountability and results;

NOW, THEREFORE, BE IT RESOLVED, By the House of Representatives of the state of Washington, the Senate concurring, That the statewide strategic master plan update submitted by the higher education coordinating board on December 15, 2007, be approved; and

BE IT FURTHER RESOLVED, That during the development of the final plan, the higher education coordinating board should consider:

(1) Providing programs, degrees, and certificates that use industry best practices and an outcome-based approach for each academic subject offered including remedial and adult basic education;

(2) Maximizing the use of full-time faculty employment without hampering the institutions' ability to maintain an adequate level of flexibility and cost-effectiveness;

(3) Creating and maintaining sustainable, efficient, and cost-effective facilities, technology, and programs that provide enhanced access and delivery of postsecondary education throughout the state;

(4) Maximizing the use of state funding and reviewing the cost of service delivery including innovative approaches used by other nations such as review of the time to degree, credit hours

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required, and other methods to reduce costs while maintaining quality; and

(5) The program capacity at public, independent, and career schools when determining the public investments that the higher education coordinating board recommends to be made to the legislature for new program and facility development to meet the total demand for a skilled and educated workforce; and

BE IT FURTHER RESOLVED, That the higher education coordinating board shall actively involve public and independent two-year and four-year institutions of higher education, private vocational schools, the council of presidents, the independent colleges of Washington, the state board for community and technical colleges, the workforce training and education coordinating board, faculty from four-year institutions of higher education and the community and technical colleges, students, representatives of business and other interested stakeholders, the office of financial management, the office of the superintendent of public instruction, teachers and other representatives of the public school system, and appropriate committees of the legislature, in collaboratively refining the strategies and specifying next steps required to implement strategies recommended in the 2008 update of the master plan; and

BE IT FURTHER RESOLVED, That the higher education coordinating board shall report to the higher education committees of the House of Representatives and the Senate on progress implementing the 2008 update of the master plan by February 1, 2009."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Higher Education to Engrossed Substitute House Concurrent Resolution No. 4408.

The motion by Senator Kilmer carried and the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute House Concurrent Resolution No. 4408 as amended by the Senate was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

Senator Kilmer spoke in favor of passage of the resolution.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Concurrent Resolution No. 4408 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Concurrent Resolution No. 4408 as amended by the Senate and the concurrent resolution passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridmore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SUBSTITUTE HOUSE CONCURRENT RESOLUTION NO. 4408, having received the constitutional majority, was declared passed.

MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before

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the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through March 11, 2008."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through March 11, 2008.

MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

ENGROSSED SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8407, by Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, Clements, Keiser and Parlette).

Addressing liquor laws.

The bill was read on Third Reading.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute Senate Concurrent Resolution No. 8407 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8407, by Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, Clements, Keiser and Parlette)

Addressing liquor laws.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following amendment by Senator Kohl-Welles be adopted.

On page 1, beginning on line 1, strike all material through "2008." on page 2, line 13, and insert the following:

"WHEREAS, The Liquor Control Board was established in 1933 to oversee the sale, manufacture, and distribution of liquor in this state; and

WHEREAS, Many of the laws relating to the manufacture, distribution, and sale of beer and wine have either not been substantially amended or been amended in a disjointed piecemeal manner since 1933; and

WHEREAS, Since 1993 there have been 91 bills introduced in the legislature dealing with the sale, distribution, or manufacture of beer and wine in this state, 16 of those bills being introduced during the 2007 session; and

WHEREAS, The legislature has spent countless hours dealing with bills that create many small exemptions from provisions governing beer and wine sales and tied house;

NOW, THEREFORE, BE IT RESOLVED, By the Senate of the state of Washington, the House of Representatives concurring, That the laws dealing with the sale and manufacture of beer and wine be thoroughly reviewed; and

BE IT FURTHER RESOLVED, That a joint select committee on beer and wine regulation be established to review laws relating to the manufacture, distribution, and sale of beer and wine to determine whether the laws should be continued in their present form or reformulated to decrease the number of

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bills introduced in the legislature each year; and

BE IT FURTHER RESOLVED, That the committee shall consist of eight members; and

BE IT FURTHER RESOLVED, That the chair and ranking minority member of the Senate labor, commerce, research and development committee and the chair and ranking minority member of the House commerce and labor committee shall each be appointed to the committee; and

BE IT FURTHER RESOLVED, that the leaders of the two largest caucuses in the Senate shall each appoint one member of their respective caucuses to the committee; and

BE IT FURTHER RESOLVED, That the leaders of the two largest caucuses in the House of Representatives shall each appoint one member of their respective caucuses to the committee; and

BE IT FURTHER RESOLVED, that Legislative members of the committee must be reimbursed for travel expenses in accordance with RCW 44.04.120; that expenses of the committee must be paid jointly by the senate and the house of representatives, and that committee expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees; and

BE IT FURTHER RESOLVED, that the committee shall choose its co-chairs from among its membership, and that the chair of the Senate Labor, Commerce, Research and Development Committee and the chair of the House Commerce and Labor Committee shall convene the initial meeting of the committee;

BE IT FURTHER RESOLVED, That the committee report its findings and recommendations to the appropriate committees of the legislature by December 1, 2008; and

BE IT FURTHER RESOLVED, that the committee shall expire July 1, 2009."

Senator Kohl-Welles spoke in favor of adoption of the amendment.

Senators Holmquist, Benton and Parlette spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kohl-Welles on page 1, line 1 to Engrossed Substitute Senate Concurrent Resolution No. 8407.

The motion by Senator Kohl-Welles carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Second Engrossed Substitute Senate Concurrent Resolution No. 8407 was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the resolution.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Concurrent Resolution No. 8407.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Concurrent Resolution No. 8407 and the concurrent resolution passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr,

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McAuliffe, McDermott, Murray, Oemig, Pflug, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel, Tom and Weinstein - 32

Voting nay: Senators Benton, Brandland, Carrell, Delvin, Franklin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Roach, Schoesler, Stevens, Swecker and Zarelli - 17

SECOND ENGROSSED SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8407, having received the constitutional majority, was declared passed.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1030,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1031
FOURTH SUBSTITUTE HOUSE BILL NO. 1103,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.
1621,
SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO.
1637,
THIRD SUBSTITUTE HOUSE BILL NO. 1741,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.
1773,
SUBSTITUTE HOUSE BILL NO. 2014,
SECOND ENGROSSED SECOND SUBSTITUTE HOUSE
BILL NO. 2176,
SUBSTITUTE HOUSE BILL NO. 2472,
SUBSTITUTE HOUSE BILL NO. 2474,
HOUSE BILL NO. 2510,
SECOND SUBSTITUTE HOUSE BILL NO. 2514,
SUBSTITUTE HOUSE BILL NO. 2525,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.
2533,
SECOND SUBSTITUTE HOUSE BILL NO. 2537,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.
2549,
SECOND SUBSTITUTE HOUSE BILL NO. 2557,
SUBSTITUTE HOUSE BILL NO. 2582,
SUBSTITUTE HOUSE BILL NO. 2602,
SUBSTITUTE HOUSE BILL NO. 2639,
ENGROSSED HOUSE BILL NO. 2641,
SUBSTITUTE HOUSE BILL NO. 2666,
SECOND SUBSTITUTE HOUSE BILL NO. 2674,
SECOND SUBSTITUTE HOUSE BILL NO. 2713,
SUBSTITUTE HOUSE BILL NO. 2746,
HOUSE BILL NO. 2774,
SUBSTITUTE HOUSE BILL NO. 2779,
HOUSE BILL NO. 2781,
HOUSE BILL NO. 2786,
HOUSE BILL NO. 2835,
SUBSTITUTE HOUSE BILL NO. 2881,
HOUSE BILL NO. 2887,
SUBSTITUTE HOUSE BILL NO. 2963,
HOUSE BILL NO. 3088,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 3096,
SECOND SUBSTITUTE HOUSE BILL NO. 3129,
ENGROSSED HOUSE BILL NO. 3142,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 3166,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.
3186,
SECOND SUBSTITUTE HOUSE BILL NO. 3274,
SUBSTITUTE HOUSE BILL NO. 3283,

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

REPORT OF THE CONFERENCE REPORT
Engrossed Substitute House Bill No. 2878
March 11, 2008

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MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Substitute House Bill No. 2878, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"2007-09 BIENNIUM

GENERAL GOVERNMENT AGENCIES--OPERATING

Sec. 101. 2007 c 518 s 101 (uncodified) is amended to read as follows:

FOR THE UTILITIES AND TRANSPORTATION COMMISSION

Grade Crossing Protective Account--State
 Appropriation ~~(\$505,000)~~
\$504,000

Sec. 102. 2007 c 518 s 102 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

Motor Vehicle Account--State Appropriation . . ~~(\$3,054,000)~~
\$3,577,000
 State Patrol Highway Account--State Appropriation . \$100,000
 Puget Sound Ferry Operations Account--State
 Appropriation \$100,000
 TOTAL APPROPRIATION . . ~~(\$3,154,000)~~
\$3,777,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,545,000 of the motor vehicle account--state appropriation is provided solely for the office of regulatory assistance integrated permitting project.

(2) \$75,000 of the motor vehicle account--state appropriation is provided solely to address transportation budget and reporting requirements.

(3) \$100,000 of the state patrol highway account--state appropriation is provided solely for a study of the most cost-effective means of ensuring that the pension concerns of the members of the Washington state patrol retirement system are adequately and appropriately considered and submitted to the legislature. The office of financial management shall solicit participation and guidance from the senate ways and means committee, the house of representatives appropriations committee, the department of retirement systems, the Washington state patrol troopers association, the Washington state patrol lieutenants association, the Washington state patrol, and the office of the state actuary, and report the study recommendations to the legislature by November 1, 2008.

(4) The department shall make a recommendation to the transportation committees of the legislature by December 1, 2008, as to whether Washington state ferries marine employees should be covered under workman's compensation.

(5) \$400,000 of the motor vehicle account--state appropriation is provided solely for the continued maintenance and support of the transportation executive information system (TEIS).

(6) The office of financial management shall work collaboratively with the house of representatives and senate transportation committees to ensure that future budget proposals reflect criteria for performance excellence and earned value

measures, and align with the goals and performance measures contained within the state transportation progress report.

Sec. 103. 2007 c 518 s 103 (uncodified) is amended to read as follows:

FOR THE MARINE EMPLOYEES COMMISSION

Puget Sound Ferry Operations Account--State
 Appropriation ~~(\$422,000)~~
\$434,000

The appropriation in this section is subject to the following conditions and limitations: A maximum of \$22,000 may be expended to pay the department of personnel for conducting the 2007 salary survey.

Sec. 104. 2007 c 518 s 104 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Motor Vehicle Account--State Appropriation ~~(\$985,000)~~
\$983,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation in this section is provided solely for road maintenance purposes.

Sec. 105. 2007 c 518 s 105 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

Motor Vehicle Account--State Appropriation . . ~~(\$1,358,000)~~
\$1,355,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$351,000 of the motor vehicle account--state appropriation is provided solely for costs associated with the motor fuel quality program.

(2) ~~(\$1,007,000)~~ \$1,004,000 of the motor vehicle account--state appropriation is provided solely to test the quality of biofuel. The department must test fuel quality at the biofuel manufacturer, distributor, and retailer.

Sec. 106. 2007 c 518 s 106 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Motor Vehicle Account--State Appropriation ~~(\$223,000)~~
\$340,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation is provided solely for ~~(staffing costs to be dedicated to state)~~ transportation activities. Staff hired to support transportation activities must have practical experience with complex construction projects.

Sec. 107. 2007 c 518 s 107 (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

Motor Vehicle Account--State Appropriation . . ~~(\$1,595,000)~~
\$1,195,000

The appropriation in this section is subject to the following conditions and limitations:

(1) ~~(\$800,000)~~ \$400,000 of the motor vehicle account--state appropriation is provided solely for the continued maintenance and support of the transportation executive information system (TEIS).

(2) \$795,000 of the motor vehicle account--state appropriation is provided solely for development of a new transportation capital budgeting system and transition of a copy of the transportation executive information system (TEIS) to LEAP. At a minimum, the new budgeting system development effort must provide comprehensive schematic diagrams of the current and proposed transportation capital budget process, information flows, and data exchanges; common, agreed-upon data definitions and business rules; detailed transportation capital budget data and system requirements; and a strategy for implementation, including associated costs and a timeframe.

TRANSPORTATION AGENCIES--OPERATING

Sec. 201. 2007 c 518 s 201 (uncodified) is amended to read as follows:

FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION

Highway Safety Account--State Appropriation	(\$2,609,000)
	\$2,605,000
Highway Safety Account--Federal Appropriation(\$15,880,000)	
	\$15,845,000
School Zone Safety Account--State Appropriation(\$3,300,000)	
	\$3,376,000
TOTAL APPROPRIATION	(\$21,789,000)
	\$21,826,000

The appropriations in this section are subject to the following conditions and limitations: \$76,000 of the school zone safety account--state appropriation is provided solely for contracting with the office of the superintendent of public instruction (OSPI) to conduct pilot programs in three school districts for road safety education and training for children, in order to teach children safe walking, bicycling, and transit use behavior. The pilot projects shall be conducted during the 2008-09 academic year, and shall be modeled after a program and curriculum successfully implemented in the Spokane school district. Funds are provided for curriculum resources, bicycle purchases, teacher training, other essential services and equipment, and OSPI administrative expenses which may include contracting out pilot program administration. The participating school districts shall be located as follows: One in Grant county, one in Island county, and one in Kitsap county. The OSPI shall evaluate the pilot programs, and report to the transportation committees of the legislature no later than December 1, 2009, on the outcomes of the pilot programs. The report shall include a survey identifying barriers to, interest in, and the likelihood of students traveling by biking, walking, or transit both prior to and following completion of the pilot program.

Sec. 202. 2007 c 518 s 202 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account--State Appropriation (\$907,000)	
	\$900,000
Motor Vehicle Account--State Appropriation	(\$2,075,000)
	\$2,058,000
County Arterial Preservation Account--State	
Appropriation	(\$1,399,000)
	\$1,388,000
TOTAL APPROPRIATION	(\$4,381,000)
	\$4,346,000

The appropriations in this section are subject to the following conditions and limitations: \$481,000 of the county arterial preservation account--state appropriation is provided solely for continued development and implementation of a

maintenance management system to manage county transportation assets.

Sec. 203. 2007 c 518 s 203 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Urban Arterial Trust Account--State Appropriation	
.....	(\$1,793,000)
	\$1,778,000
Transportation Improvement Account--State	
Appropriation	(\$1,795,000)
	\$1,780,000
TOTAL APPROPRIATION	(\$3,588,000)
	\$3,558,000

Sec. 204. 2007 c 518 s 204 (uncodified) is amended to read as follows:

FOR THE BOARD OF PILOTAGE COMMISSIONERS

Pilotage Account--State Appropriation	(\$1,156,000)
	\$1,152,000

Sec. 205. 2007 c 518 s 205 (uncodified) is amended to read as follows:

FOR THE JOINT TRANSPORTATION COMMITTEE

Motor Vehicle Account--State Appropriation	(\$2,103,000)
	\$2,513,000
Multimodal Transportation Account--State Appropriation	
.....	\$550,000
TOTAL APPROPRIATION	(\$2,653,000)
	\$3,063,000

The appropriations in this section (~~(ts)~~) are subject to the following conditions and limitations:

(1) (~~(\$500,000)~~) \$750,000 of the motor vehicle account--state appropriation is for establishing a work group to implement Engrossed Substitute House Bill No. 2358 (regarding state ferries) and review other matters relating to Washington state ferries. The cochairs of the committee shall establish the work group comprising committee members or their designees, an appointee by the governor, and other stakeholders as appointed by the cochairs, to assist in the committee's work. The work group shall report (~~(the progress of)~~) on its tasks to the transportation committees of the legislature by December (~~(15, 2007)~~) 2008. The work group is tasked with the following:

(a) Implementing the recommendations of Engrossed Substitute House Bill No. 2358 (regarding state ferries). As directed by Engrossed Substitute House Bill No. 2358, the committee work group shall participate in and provide a review of the following:

(i) The Washington transportation commission's development and interpretation of a survey of ferry customers;

(ii) The department of transportation's analysis and reestablishment of vehicle level of service standards. In reestablishing the standards, consideration must be given to whether boat wait is the appropriate measure;

(iii) The department's development of pricing policy proposals. In developing these policies, the policy, in effect on some routes, of collecting fares in only one direction must be evaluated to determine whether one-way fare pricing best serves the ferry system;

(iv) The department's development of operational strategies;

(v) The department's development of terminal design standards; and

(vi) The department's development of a long-range capital plan;

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(b) Reviewing the following Washington state ferry programs:

- (i) Ridership demand forecast;
- (ii) Updated life cycle cost model, as directed by Engrossed Substitute House Bill No. 2358;
- (iii) Administrative operating costs, nonlabor and nonfuel operating costs, Eagle Harbor maintenance facility program and maintenance costs, administrative and systemwide capital costs, and vessel preservation costs; and
- (iv) The Washington state ferries' proposed capital cost allocation plan methodology, as described in Engrossed Substitute House Bill No. 2358;

(c) Making recommendations regarding:

- (i) The most efficient timing and sizing of future vessel acquisitions beyond those currently authorized by the legislature. Vessel acquisition recommendations must be based on the ridership projections, level of service standards, and operational and pricing strategies reviewed by the committee and must include the impact of those recommendations on the timing and size of terminal capital investments and the state ferries' long range operating and capital finance plans; and
- (ii) Capital financing strategies for consideration in the 2009 legislative session. This work must include confirming the department's estimate of future capital requirements based on a long range capital plan and must include the department's development of a plan for codevelopment and public private partnership opportunities at public ferry terminals; and

(d) Evaluate the capital cost allocation plan methodology developed by the department to implement Engrossed Substitute House Bill No. 2358.

(2) \$250,000 of the motor vehicle account--state appropriation and \$250,000 of the multimodal transportation account--state appropriation are for the continuing implementation of ~~((Substitute Senate Bill No. 5207))~~ chapter 514, Laws of 2007.

(3) \$300,000 of the multimodal transportation account--state appropriation is for implementing Substitute House Bill No. 1694 (coordinated transportation). If Substitute House Bill No. 1694 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(4) \$150,000 of the motor vehicle account--state appropriation is for the Puget Sound regional council to conduct a pilot program for multimodal concurrency analysis. This pilot program will analyze total trip needs for a regional growth center based on adopted land use plans, identify the number of trips which can be accommodated by planned roadway, transit service, and nonmotorized investments, and identify gaps for trips that cannot be served and strategies to fill those gaps. The purpose of this pilot is to demonstrate how this type of multimodal concurrency analysis can be used to broaden and strengthen local concurrency programs.

Sec. 206. 2007 c 518 s 206 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account--State Appropriation . . .	(\$2,276,000)
	<u>\$2,322,000</u>
Multimodal Transportation Account--State Appropriation	
.....	\$112,000
TOTAL APPROPRIATION . . .	(\$2,388,000)
	<u>\$2,434,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$350,000 of the motor vehicle account--state appropriation is provided solely for the commission to conduct a survey of ferry customers as described in Engrossed Substitute House Bill No. 2358. Development and interpretation of the survey must be done with participation of the joint

transportation committee work group established in section 205(1) of this act.

(2) ~~(\$100,000 of the motor vehicle account--state appropriation is provided solely for a study to identify and evaluate long-term financing alternatives for the Washington state ferry system. The study shall incorporate the findings of the initial survey described in subsection (1) of this section, and shall consider the potential for state, regional, or local financing options. The commission shall submit a draft final report of its findings and recommendations to the transportation committees of the legislature no later than December 2008.~~

~~---~~(3) The commission shall conduct a planning grade tolling study that is based on the recommended policies in the commission's comprehensive tolling study submitted September 20, 2006.

(3) Pursuant to RCW 43.135.055, during the 2007-09 fiscal biennium, the transportation commission shall establish, periodically review, and, if necessary, modify a schedule of toll charges applicable to the state route 167 high-occupancy toll lane pilot project, as required by RCW 47.56.403.

(4) Pursuant to RCW 43.135.055, during the 2007-09 fiscal biennium, the transportation commission shall periodically review, and, if necessary, modify the schedule of toll charges applicable to the Tacoma Narrows bridge, taking into consideration the recommendations of the citizen advisory committee created by RCW 47.46.091.

(5) \$205,000 of the motor vehicle account--state appropriation is provided solely for a study of potential revenue sources for the Washington state ferry system. The study must model and assess the revenue generating potentials of feasible alternative funding sources. The revenue forecasting models must be dynamic and ownership of these models must be retained by the commission. The commission shall develop revenue source recommendations that will generate revenue equal to or greater than the funding level identified by the ferries finance study of the joint transportation committee referenced in section 205 of this act, and shall report its recommendations to the transportation committees of the legislature by November 15, 2008.

(6) The transportation commission shall develop recommendations to reduce and control tolling operations costs. These recommendations shall be presented to the transportation committees of the state legislature by December 1, 2008. To this end, the commission shall generate benchmarks to evaluate program efficiencies. They shall also review and confirm data necessary to evaluate tolling operations. The department of transportation shall cooperate with the commission and provide documents and data to assist with this evaluation.

Sec. 207. 2007 c 518 s 207 (uncodified) is amended to read as follows:

FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

Motor Vehicle Account--State Appropriation . . . ~~(\$695,000)~~
\$691,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The freight mobility strategic investment board shall, on a quarterly basis, provide status reports to the office of financial management and the transportation committees of the legislature on the delivery of projects funded by this act.

(2) The freight mobility strategic investment board and the department of transportation shall collaborate to submit a report to the office of financial management and the transportation committees of the legislature by September 1, 2008, listing proposed freight highway and rail projects. The report must describe the analysis used for selecting such projects, as required by chapter 47.06A RCW for the board and as required

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by this act for the department. When developing its list of proposed freight highway and rail projects, the freight mobility strategic investment board shall use the priorities identified in section 309(7)(a) of this act to the greatest extent possible.

Sec. 208. 2007 c 518 s 208 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL--FIELD OPERATIONS BUREAU

State Patrol Highway Account--State	
Appropriation	(\$225,445,000)
	\$226,924,000
State Patrol Highway Account--Federal	
Appropriation	\$10,602,000
State Patrol Highway Account--Private/Local	
Appropriation	\$410,000
TOTAL APPROPRIATION	(\$236,457,000)
	\$237,936,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol.

(2) In addition to the user fees, the patrol shall transfer into the state patrol nonappropriated airplane revolving account under RCW 43.79.470 no more than the amount of appropriated state patrol highway account and general fund funding necessary to cover the costs for the patrol's use of the aircraft. The state patrol highway account and general fund--state funds shall be transferred proportionately in accordance with a cost allocation that differentiates between highway traffic enforcement services and general policing purposes.

(3) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the governor and transportation committees of the senate and house of representatives by September 30th of each year.

(4) \$1,662,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1304 (commercial vehicle enforcement). If Substitute House Bill No. 1304 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(5) During the ~~((fiscal year 2008))~~ 2007-2009 biennium, the Washington state patrol shall continue to perform traffic accident investigations on Thurston, Mason, and Lewis county roads ~~(, and shall work with the counties to transition the)~~ when requested to do so by the respective county; however, the counties shall conduct traffic accident investigations on county roads ((to the counties by July 1, 2008)) beginning July 1, 2009.

(6) \$100,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1417 (health benefits for surviving dependents). If Substitute House Bill No. 1417 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(7) \$3,300,000 of the state patrol highway account--state appropriation is provided solely for the salaries and benefits associated with accretion in the number of troopers employed above 1,158 authorized commissioned troopers, or solely for

training new cadets; however, the amount provided in this subsection is contingent on the Washington state patrol submitting a 2009-11 budget request that fully funds field force operations without reliance on a projected vacancy rate. The Washington state patrol shall perform a study with a final report due to the legislative transportation committees by December 1, 2008, on the advantages and disadvantages of staffing the commercial vehicle enforcement section with commissioned officers instead of commercial vehicle enforcement officers.

(8) By July 1, 2008, the Washington state patrol shall assign six additional troopers to the Monroe detachment from among troopers requesting transfer to Monroe or graduating cadet classes.

Sec. 209. 2007 c 518 s 209 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL-- INVESTIGATIVE SERVICES BUREAU

State Patrol Highway Account--State Appropriation	
.....	(\$1,300,000)
	\$1,552,000

Sec. 210. 2007 c 518 s 210 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL-- TECHNICAL SERVICES BUREAU

State Patrol Highway Account--State Appropriation	
.....	(\$103,157,000)
	\$102,726,000
State Patrol Highway Account--Private/Local	
Appropriation	\$2,008,000
TOTAL APPROPRIATION	(\$105,165,000)
	\$104,734,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The Washington state patrol shall work with the risk management division in the office of financial management in compiling the Washington state patrol's data for establishing the agency's risk management insurance premiums to the tort claims account. The office of financial management and the Washington state patrol shall submit a report to the legislative transportation committees by December 31st of each year on the number of claims, estimated claims to be paid, method of calculation, and the adjustment in the premium.

(2) ~~(\$12,641,000)~~ \$9,981,000 of the total appropriation is provided solely for automobile fuel in the 2007-2009 biennium.

(3) ~~(\$8,678,000)~~ \$7,461,000 of the total appropriation is provided solely for the purchase of pursuit vehicles.

(4) ~~(\$5,254,000)~~ \$6,328,000 of the total appropriation is provided solely for vehicle repair and maintenance costs of vehicles used for highway purposes.

(5) \$384,000 of the total appropriation is provided solely for the purchase of mission vehicles used for highway purposes in the commercial vehicle and traffic investigation sections of the Washington state patrol.

(6) The Washington state patrol may submit information technology related requests for funding only if the patrol has coordinated with the department of information services as required by section 602 of this act.

(7) \$630,000 of the total appropriation is provided solely for the ongoing software maintenance and technical support for the digital microwave system. The Washington state patrol shall coordinate with the other members of the Washington state interoperability executive committee to ensure compatibility between emergency communication systems.

Sec. 211. 2007 c 518 s 212 (uncodified) is amended to read as follows:

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FOR THE DEPARTMENT OF LICENSING

Marine Fuel Tax Refund Account--State Appropriation	\$32,000
Motorcycle Safety Education Account--State Appropriation	(\$3,905,000)
	\$3,898,000
Wildlife Account--State Appropriation	(\$843,000)
	\$830,000
Highway Safety Account--State Appropriation	(\$141,953,000)
	\$145,444,000
Highway Safety Account--Federal Appropriation	\$233,000
Motor Vehicle Account--State Appropriation	(\$79,230,000)
	\$78,235,000
Motor Vehicle Account--Private/Local Appropriation	
	\$1,372,000
Motor Vehicle Account--Federal Appropriation	(\$117,000)
	\$1,354,000
Department of Licensing Services Account--State Appropriation	(\$3,540,000)
	\$4,639,000
Washington State Patrol Highway Account--State Appropriation	\$1,145,000
TOTAL APPROPRIATION	(\$232,370,000)
	\$237,182,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,941,000 of the highway safety account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1267 (modifying commercial driver's license requirements). If Substitute House Bill No. 1267 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse. The department shall informally report to the legislature by December 1, 2008, with measurable data indicating the department's progress in meeting its goal of improving public safety by improving the quality of the commercial driver's license testing process.

(2) \$716,000 of the motorcycle safety education account--state appropriation is provided solely for the implementation of Senate Bill No. 5273 (modifying motorcycle driver's license endorsement and education provisions). If Senate Bill No. 5273 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(3) ~~(\$8,872,000)~~ (a) \$12,422,000 of the highway safety account--state appropriation is provided solely for costs associated with the (systems development and issuance of) processing costs of issuing enhanced drivers' licenses and identicards (to facilitate crossing the Canadian border. If Engrossed Substitute House Bill No. 1289 (relating to the issuance of enhanced drivers' licenses and identicards) is not enacted by June 30, 2007, the amount provided in this subsection shall lapse. The department may expend funds only after acceptance of the enhanced Washington state driver's license for border crossing purposes by the Canadian and United States governments. The department may expend funds only after prior written approval of the director of financial management). (b) Of the amount provided in (a) of this subsection, up to \$1,000,000 is for a statewide educational campaign, which must include coordination with existing public and private entities, to inform the Washington public of the benefits of the new enhanced drivers' licenses and identicards. Funds may be spent on educational campaigns only after the caseload for enhanced drivers' licenses and identicards falls below levels that can be reasonably processed by the department within the appropriation provided by this subsection. \$300,000 of the \$1,000,000 is for the department to partner with cross-border tourism businesses to create an educational campaign.

(c) Of the amount provided in (a) of this subsection, \$10,722,000 is provided solely for costs associated with

providing enhanced driver's license processing at 14 licensing services offices.

(d) Of the amount provided in (a) of this subsection, \$700,000 is provided solely for costs associated with extending hours beyond current regular business hours at the 14 licensing service offices that provide enhanced driver's license processing services.

(4) \$91,000 of the motor vehicle account--state appropriation and \$152,000 of the highway safety account--state appropriation are provided solely for contracting with the office of the attorney general to investigate criminal activity uncovered in the course of the agency's licensing and regulatory activities. Funding is provided for the 2008 fiscal year. The department may request funding for the 2009 fiscal year if the request is submitted with measurable data indicating the department's progress in meeting its goal of increased prosecution of illegal activity.

(5) \$350,000 of the highway safety account--state appropriation is provided solely for the costs associated with the systems development of the interface that will allow insurance carriers and their agents real time, online access to drivers' records. If Substitute Senate Bill No. 5937 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(6) \$1,145,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1304 (modifying commercial motor vehicle carrier provisions). If Substitute House Bill No. 1304 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(7) The department may submit information technology related requests for funding only if the department has coordinated with the department of information services as required by section 602 of this act.

(8) ~~(Within the amounts appropriated in this section, the department shall, working with the legislature, develop a proposal to)~~ \$116,000 of the motor vehicle account--state appropriation is provided solely for the department to prepare draft legislation that streamlines title and registration statutes to specifically address apparent conflicts, fee distribution, and other (recommendations by the department) relevant issues that are revenue neutral and which do not change legislative policy. The department shall (report the results of this review to the transportation committees of the legislature by December 1, 2007) submit the draft legislation to the transportation committees of the legislature by the end of the biennium.

(9) \$246,000 of the department of licensing services account--state appropriation is provided solely for the implementation of Substitute House Bill No. 3029 (secure vehicle licensing system). If Substitute House Bill No. 3029 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(10) \$200,000 of the highway safety account--state appropriation is provided solely for the implementation of Senate Bill No. 6885 (driving record abstracts). If Senate Bill No. 6885 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(11) \$417,000 of the highway safety account--state appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 3254 (ignition interlock drivers' license). If Engrossed Second Substitute House Bill No. 3254 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(12) \$100,000 of the department of licensing services account--state appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 2817 (contaminated vehicles). If Engrossed Second Substitute House Bill No. 2817 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(13) The department shall investigate instituting a program whereby individual registered vehicle owners may have license plates tested for reflectivity to determine whether the department's requirement that the license plates be replaced after seven years can be waived for that particular set of license plates.

Sec. 212. 2007 c 518 s 213 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
TOLL OPERATIONS AND MAINTENANCE--PROGRAM
B**

High-Occupancy Toll Lanes Account--State	
Appropriation	(\$2,596,000)
	\$2,253,000
Motor Vehicle Account--State Appropriation . .	(\$5,600,000)
	\$600,000
Tacoma Narrows Toll Bridge Account--State	
Appropriation	(\$28,218,000)
	\$28,322,000
TOTAL APPROPRIATION .	(\$36,414,000)
	\$31,175,000

The appropriations in this section are subject to the following conditions and limitations:

~~((1) \$5,000,000 of the motor vehicle account--state is provided solely to provide a reserve for the Tacoma Narrows Bridge project. This appropriation shall be held in unallotted status until the office of financial management deems that revenues applicable to the Tacoma Narrows Bridge project are not sufficient to cover the project's expenditures.~~

~~(2) The department shall solicit private donations to fund activities related to the opening ceremonies of the Tacoma Narrows bridge project.) The department shall develop incentives to reduce and control tolling operations costs. These incentives may be directed at the public, the tolling contractor, or the department. Incentives to be considered should include, but not be limited to: Incentives to return unneeded transponders, incentives to close inactive accounts, incentives to reduce printed account statements, incentives to reduce labor costs, and incentives to reduce postage and shipping costs. These incentives shall be presented for review by the transportation commission by September 30, 2008.~~

Sec. 213. 2007 c 518 s 214 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
INFORMATION TECHNOLOGY--PROGRAM C**

Transportation Partnership Account--State	
Appropriation	(\$4,556,000)
	\$5,892,000
Motor Vehicle Account--State Appropriation .	(\$67,613,000)
	\$67,710,000
Motor Vehicle Account--Federal Appropriation . . .	\$1,096,000
Puget Sound Ferry Operations Account--State	
Appropriation	(\$9,192,000)
	\$9,143,000
Multimodal Transportation Account--State	
Appropriation	\$363,000
Transportation 2003 Account (Nickel Account)--State	
Appropriation	(\$4,000,000)
	\$5,337,000
TOTAL APPROPRIATION .	(\$86,820,000)
	\$89,541,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall consult with the office of financial management and the department of information services to

ensure that (a) the department's current and future system development is consistent with the overall direction of other key state systems; and (b) when possible, use or develop common statewide information systems to encourage coordination and integration of information used by the department and other state agencies and to avoid duplication.

(2) The department shall provide updated information on six project milestones for all active projects, funded in part or in whole with 2005 transportation partnership account funds or 2003 nickel account funds, on a quarterly basis in the transportation executive information system (TEIS). The department shall also provide updated information on six project milestones for projects, funded with preexisting funds and that are agreed to by the legislature, office of financial management, and the department, on a quarterly basis in TEIS.

(3) ~~(\$2,300,000)~~ \$3,300,000 of the motor vehicle account--state appropriation is provided solely for preliminary work needed to transition the department to the state government network. In collaboration with the department of information services the department shall complete an inventory of the current network infrastructure, ~~(and)~~ develop an implementation plan for transition to the state government network, improve security, and initiate connection to the state government network.

(4) \$1,000,000 of the motor vehicle account--state appropriation, ~~(\$4,556,000)~~ \$5,892,000 of the transportation partnership account--state appropriation, and ~~(\$4,000,000)~~ \$5,337,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for the department to develop a project management and reporting system which is a collection of integrated tools for capital construction project managers to use to perform all the necessary tasks associated with project management. The department shall integrate commercial off-the-shelf software with existing department systems and enhanced approaches to data management to provide web-based access for multi-level reporting and improved business workflows and reporting. Beginning September 1, 2007, and on a quarterly basis thereafter, the department shall report to the office of financial management and the transportation committees of the legislature on the status of the development and integration of the system. The first report shall include a detailed work plan for the development and integration of the system including timelines and budget milestones. At a minimum the ensuing reports shall indicate the status of the work as it compares to the work plan, any discrepancies, and proposed adjustments necessary to bring the project back on schedule or budget if necessary.

(5) The department may submit information technology related requests for funding only if the department has coordinated with the department of information services as required by section 602 of this act.

(6) \$1,600,000 of the motor vehicle account--state appropriation is provided solely for the critical application assessment implementation project. The department shall submit a progress report on the critical application assessment implementation project to the house of representatives and senate transportation committees on or before December 1, 2007, and December 1, 2008, with a final report on or before June 30, 2009.

Sec. 214. 2007 c 518 s 215 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
FACILITY MAINTENANCE, OPERATIONS AND
CONSTRUCTION--PROGRAM D--OPERATING**

Motor Vehicle Account--State Appropriation .	(\$34,569,000)
	\$33,982,000

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Sec. 215. 2007 c 518 s 216 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
AVIATION--PROGRAM F**

Aeronautics Account--State Appropriation	(\$6,889,000)
	<u>\$7,866,000</u>
Aeronautics Account--Federal Appropriation	\$2,150,000
Multimodal Transportation Account--State Appropriation	\$631,000
.....	
TOTAL APPROPRIATION	(\$9,670,000)
	<u>\$10,647,000</u>

The appropriations in this section are subject to the following conditions and limitations: The entire multimodal transportation account--state appropriation ~~((is))~~ and \$400,000 of the aeronautics account--state appropriation are provided solely for the aviation planning council as provided for in RCW 47.68.410.

Sec. 216. 2007 c 518 s 217 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
PROGRAM DELIVERY MANAGEMENT AND
SUPPORT--PROGRAM H**

Transportation Partnership Account--State	
Appropriation	\$2,422,000
Motor Vehicle Account--State Appropriation	(\$50,446,000)
	<u>\$52,275,000</u>
Motor Vehicle Account--Federal Appropriation	\$500,000
Multimodal Transportation Account--State	
Appropriation	\$250,000
Transportation 2003 Account (Nickel Account)--State	
Appropriation	\$2,422,000
TOTAL APPROPRIATION	(\$56,040,000)
	<u>\$57,869,000</u>

The appropriations in this section ~~((is))~~ are subject to the following conditions and limitations: \$2,422,000 of the transportation partnership account appropriation and \$2,422,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for consultant contracts to assist the department in the delivery of the capital construction program by identifying improvements to program delivery, program management, project controls, program and project monitoring, forecasting, and reporting. The consultants shall work with the department of information services in the development of the project management and reporting system.

The consultants shall provide an updated copy of the capital construction strategic plan to the legislative transportation committees and to the office of financial management on June 30, 2008, and each year thereafter.

The department shall coordinate its work with other budget and performance efforts, including Roadmap, the findings of the critical applications modernization and integration strategies study, including proposed next steps, and the priorities of government process.

The department shall report to the transportation committees of the house of representatives and senate, and the office of financial management, by December 31, 2007, on the implementation status of recommended capital budgeting and reporting options. Options must include: Reporting against legislatively-established project identification numbers and may include recommendations for reporting against other appropriate project groupings; measures for reporting progress, timeliness, and cost which create an incentive for the department to manage effectively and report its progress in a transparent manner; and criteria and process for transfers of funds among projects.

Sec. 217. 2007 c 518 s 218 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
ECONOMIC PARTNERSHIPS--PROGRAM K**

Motor Vehicle Account--State Appropriation	(\$1,151,000)
	<u>\$991,000</u>
Multimodal Transportation Account--State Appropriation	
.....	\$300,000
TOTAL APPROPRIATION	(\$1,451,000)
	<u>\$1,291,000</u>

The appropriations in this section ~~((is))~~ are subject to the following conditions and limitations:

(1) \$300,000 of the multimodal account--state appropriation is provided solely for the department to hire a consultant to develop a plan for codevelopment and public-private partnership opportunities at public ferry terminals.

(2) The department shall conduct an analysis and, if determined to be feasible, initiate requests for proposals involving the distribution of alternative fuels along state department of transportation rights-of-way.

Sec. 218. 2007 c 518 s 219 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
HIGHWAY MAINTENANCE--PROGRAM M**

Motor Vehicle Account--State Appropriation	(\$321,888,000)
	<u>\$331,342,000</u>
Motor Vehicle Account--Federal Appropriation	(\$2,000,000)
	<u>\$5,000,000</u>
Motor Vehicle Account--Private/Local Appropriation	
.....	\$5,797,000
TOTAL APPROPRIATION	(\$329,685,000)
	<u>\$342,139,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) If portions of the appropriations in this section are required to fund maintenance work resulting from major disasters not covered by federal emergency funds such as fire, flooding, and major slides, supplemental appropriations must be requested to restore state funding for ongoing maintenance activities.

(2) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account--state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

(3) The department shall request an unanticipated receipt for any private or local funds received for reimbursements of third party damages that are in excess of the motor vehicle account--private/local appropriation.

(4) ~~(\$1,500,000)~~ \$5,000,000 of the motor vehicle account--federal appropriation is provided for unanticipated federal funds that may be received during the 2007-09 biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

(5) Funding is provided for maintenance on the state system to deliver service level targets as listed in LEAP Transportation Document 2007-C, as developed April 20, 2007. In delivering the program and aiming for these targets, the department should concentrate on the following areas:

(a) Eliminating the number of activities delivered in the "f" level of service at the region level; and

(b) Evaluating, analyzing, and potentially redistributing resources within and among regions to provide greater

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consistency in delivering the program statewide and in achieving overall level of service targets.

(6) The department may work with the department of corrections to utilize corrections crews for the purposes of litter pickup on state highways.

(7) \$650,000 of the motor vehicle account--state appropriation is provided solely for increased asphalt costs.

(8) The department shall prepare a comprehensive listing of maintenance backlogs and related costs and report to the office of financial management and the transportation committees of the legislature by December 31, 2008.

(9) \$76,026,000 of the motor vehicle account--state appropriation is for snow and ice related expenses, within which is a one-time increase of \$3,250,000 provided solely for extraordinary snow and ice removal expenses incurred during the winter of 2007-08.

Sec. 219. 2007 c 518 s 220 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
TRAFFIC OPERATIONS--PROGRAM Q--OPERATING**

Motor Vehicle Account--State Appropriation . . .	(\$52,040,000)
	\$51,340,000
Motor Vehicle Account--Federal Appropriation . . .	\$2,050,000
Motor Vehicle Account--Private/Local Appropriation	\$127,000
TOTAL APPROPRIATION . . .	(\$54,217,000)
	\$53,517,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$654,000 of the motor vehicle account--state appropriation is provided solely for the department to time state-owned and operated traffic signals. This funding may also be used to program incident, emergency, or special event signal timing plans.

(2) \$346,000 of the motor vehicle account--state appropriation is provided solely for the department to implement a pilot tow truck incentive program. The department may provide incentive payments to towing companies that meet clearance goals on accidents that involve heavy trucks.

(3) \$6,800,000 of the motor vehicle account--state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis. By January 1, 2008, and January 1, 2009, the department shall provide a report to the legislature listing all low-cost enhancement projects prioritized on a statewide rather than regional basis completed in the prior year.

(4) The department, in consultation with the Washington state patrol, may conduct a pilot program for the patrol to issue infractions based on information from automated traffic safety cameras in roadway construction zones on state highways when workers are present.

(a) In order to ensure adequate time in the 2007-09 biennium to evaluate the effectiveness of the pilot program, any projects authorized by the department must be authorized by December 31, 2007.

(b) The department shall use the following guidelines to administer the program:

(i) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle;

(ii) The department shall plainly mark the locations where the automated traffic safety cameras are used by placing signs on locations that clearly indicate to a driver that he or she is

entering a roadway construction zone where traffic laws are enforced by an automated traffic safety camera;

(iii) Notices of infractions must be mailed to the registered owner of a vehicle within fourteen days of the infraction occurring;

(iv) The owner of the vehicle is not responsible for the violation if the owner of the vehicle, within fourteen days of receiving notification of the violation, mails to the patrol, a declaration under penalty of perjury, stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner, or any other extenuating circumstances;

(v) For purposes of the 2007-09 biennium pilot project, infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras must be processed in the same manner as parking infractions for the purposes of RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3). However, the amount of the fine issued for an infraction generated through the use of an automated traffic safety camera is one hundred thirty-seven dollars. The court shall remit thirty-two dollars of the fine to the state treasurer for deposit into the state patrol highway account;

(vi) If a notice of infraction is sent to the registered owner and the registered owner is a rental car business, the infraction will be dismissed against the business if it mails to the patrol, within fourteen days of receiving the notice, a declaration under penalty of perjury of the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred. If the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred, the business must sign a declaration under penalty of perjury to this effect. The declaration must be mailed to the patrol within fourteen days of receiving the notice of traffic infraction. Timely mailing of this declaration to the issuing agency relieves a rental car business of any liability under this section for the notice of infraction. A declaration form suitable for this purpose must be included with each automated traffic infraction notice issued, along with instructions for its completion and use; and

(vii) By June 30, 2009, the department shall provide a report to the legislature regarding the use, public acceptance, outcomes, and other relevant issues regarding the pilot project.

(5) The traffic signal operations along 164th Street SE at the intersections of Mill Creek Boulevard and SR 527 should be optimized to minimize vehicle delay on both corridors based on traffic volumes and not only on functional classification or designation.

Sec. 220. 2007 c 518 s 221 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
TRANSPORTATION MANAGEMENT AND SUPPORT--
PROGRAM S**

Motor Vehicle Account--State Appropriation . . .	(\$28,215,000)
	\$27,363,000
Motor Vehicle Account--Federal Appropriation	\$30,000
Puget Sound Ferry Operations Account--State	
Appropriation	\$1,321,000
Multimodal Transportation Account--State	
Appropriation	\$1,223,000
TOTAL APPROPRIATION . . .	(\$30,789,000)
	\$29,937,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall work with staffs from the legislative evaluation and accountability program committee, the transportation committees of the legislature, and the office of

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financial management on developing a new capital budgeting system to meet identified information needs.

(2) \$250,000 of the multimodal account--state appropriation is provided solely for implementing a wounded combat veteran's internship program, administered by the department. The department shall seek federal funding to support the continuation of this program.

Sec. 221. 2007 c 518 s 222 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
TRANSPORTATION PLANNING, DATA, AND
RESEARCH--PROGRAM T**

Motor Vehicle Account--State Appropriation . . .	((30,698,000))
	\$27,757,000
Motor Vehicle Account--Federal Appropriation . . .	\$19,163,000
Multimodal Transportation Account--State Appropriation	((1,029,000))
	\$1,760,000
Multimodal Transportation Account--Federal Appropriation	\$2,809,000
Multimodal Transportation Account--Private/Local Appropriation	\$100,000
TOTAL APPROPRIATION	((53,799,000))
	\$51,589,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~((3,900,000 of the motor vehicle account--state appropriation is provided solely for the costs of the regional transportation investment district (RTID) and department of transportation project oversight. The department shall provide support from its urban corridors region to assist in preparing project costs, expenditure plans, and modeling. The department shall not deduct a management reserve, nor charge management or overhead fees. These funds, including those expended since 2003, are provided as a loan to the RTID and shall be repaid to the state within one year following formation of the RTID. \$2,391,000 of the amount provided under this subsection shall lapse, effective January 1, 2008, if voters fail to approve formation of the RTID at the 2007 general election, as determined by the certification of the election results.))~~ \$1,559,000 of the motor vehicle account--state appropriation is provided solely for costs incurred for the 2007 regional transportation investment district election.

(2) ~~((300,000))~~ \$800,000 of the multimodal transportation account--state appropriation is provided solely for a transportation demand management program, developed by the Whatcom council of governments, to further reduce drive-alone trips and maximize the use of sustainable transportation choices. The community-based program must focus on all trips, not only commute trips, by providing education, assistance, and incentives to four target audiences: (a) Large work sites; (b) employees of businesses in downtown areas; (c) school children; and (d) residents of Bellingham.

(3) \$320,000 of the motor vehicle account--state appropriation and \$128,000 of the motor vehicle account--federal appropriation are provided solely for development of a freight database to help guide freight investment decisions and track project effectiveness. The database will be based on truck movement tracked through geographic information system technology. TransNow will contribute an additional \$192,000 in federal funds which are not appropriated in the transportation budget. The department shall work with the freight mobility strategic investment board to implement this project.

(4) By December 1, 2008, the department shall require confirmation from jurisdictions that plan under the growth management act, chapter 36.70A RCW, and that receive state transportation funding under this act, that the jurisdictions have

adopted standards for access permitting on state highways that meet or exceed department standards in accordance with RCW 47.50.030. The objective of this subsection is to encourage local governments, through the receipt of state transportation funding, to adhere to best practices in access control applicable to development activity significantly impacting state transportation facilities. By January 1, 2009, the department shall submit a report to the appropriate committees of the legislature detailing the progress of the local jurisdictions in adopting the highway access permitting standards.

(5) \$150,000 of the motor vehicle account--federal appropriation is provided solely for the costs to develop an electronic map-based computer application that will enable law enforcement officers and others to more easily locate collisions and other incidents in the field.

(6) The department shall add a position within the freight systems division to provide expertise regarding the trucking aspects of the state's freight system.

(7) The department shall evaluate the feasibility of developing a freight corridor bypass from Everett to Gold Bar on US 2, including a connection to SR 522. US 2 is an important freight corridor, and is an alternative route for I-90. Congestion, safety issues, and flooding concerns have all contributed to the need for major improvements to the corridor. The evaluation shall consider the use of toll lanes for the project. The department must report to the transportation committees of the legislature by December 1, 2007, on its analysis and recommendations regarding the benefit of a freight corridor and the potential use of freight toll lanes to improve safety and congestion in the corridor.

(8) The department shall work with the department of ecology, the county road administration board, and the transportation improvement board to develop model procedures and municipal and state rules in regard to maximizing the use of recycled asphalt on road construction and preservation projects. The department shall report to the joint transportation committee by December 1, 2008, with recommendations on increasing the use of recycled asphalt at the state and local level.

(9) \$140,000 of the multimodal transportation account--state appropriation is provided solely for a full-time employee to develop vehicle miles traveled and other greenhouse gas emissions benchmarks as described in Engrossed Second Substitute House Bill No. 2815. If Engrossed Second Substitute House Bill No. 2815 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(10) \$80,000 of the motor vehicle account--state appropriation is provided solely to study the feasibility of a new interchange on interstate 5 between the city of Rochester and Harrison avenue.

(11) \$100,000 of the multimodal transportation account--state appropriation is provided solely to support the commuter rail study between eastern Snohomish county and eastern King county as defined in Substitute House Bill No. 3224. Funds are provided to the Puget Sound regional council for one time only. If Substitute House Bill No. 3224 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

Sec. 222. 2007 c 518 s 223 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
CHARGES FROM OTHER AGENCIES--PROGRAM U**

Motor Vehicle Account--State Appropriation . . .	((66,342,000))
	\$66,102,000
Motor Vehicle Account--Federal Appropriation	\$400,000
Multimodal Transportation Account--State Appropriation	\$259,000
TOTAL APPROPRIATION	((67,001,000))

\$66,761,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$36,665,000 of the motor vehicle fund--state appropriation is provided solely for the liabilities attributable to the department of transportation. The office of financial management must provide a detailed accounting of the revenues and expenditures of the self-insurance fund to the transportation committees of the legislature on December 31st and June 30th of each year.

(2) Payments in this section represent charges from other state agencies to the department of transportation.

(a) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT DIVISION OF RISK MANAGEMENT FEES \$1,520,000

(b) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR ((~~\$1,150,000~~))
\$1,153,000

(c) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES ((~~\$4,157,000~~))
\$4,859,000

(d) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL ((~~\$4,033,000~~))
\$7,593,000

(e) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION \$36,665,000

(f) FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE \$1,838,000

(g) FOR ARCHIVES AND RECORDS MANAGEMENT ((~~\$647,000~~))
\$677,000

(h) FOR OFFICE OF MINORITIES AND WOMEN BUSINESS ENTERPRISES ((~~\$1,070,000~~))
\$1,042,000

(i) FOR USE OF FINANCIAL SYSTEMS PROVIDED BY THE OFFICE OF FINANCIAL MANAGEMENT ((~~\$930,000~~))
\$1,266,000

(j) FOR POLICY ASSISTANCE FROM THE DEPARTMENT OF INFORMATION SERVICES ((~~\$1,138,000~~))
\$945,000

(k) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE ((~~\$8,859,000~~))
\$9,045,000

(l) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE FOR THE SECOND PHASE OF THE BOLDT LITIGATION \$158,000

Sec. 223. 2007 c 518 s 224 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
PUBLIC TRANSPORTATION--PROGRAM V**

Regional Mobility Grant Program Account--State
Appropriation \$40,000,000
Multimodal Transportation Account--State
Appropriation ((~~\$85,202,000~~))
\$85,601,000

Multimodal Transportation Account--Federal
Appropriation \$2,582,000
Multimodal Transportation Account--Private/Local
Appropriation ((~~\$291,000~~))

\$659,000
TOTAL APPROPRIATION ((~~\$128,075,000~~))
\$128,842,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$25,000,000 of the multimodal transportation account--state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.

(a) \$5,500,000 of the amount provided in this subsection is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$19,500,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2005 as reported in the "Summary of Public Transportation - 2005" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) Funds are provided for the rural mobility grant program as follows:

(a) \$8,500,000 of the multimodal transportation account--state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the Summary of Public Transportation - 2005 published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) \$8,500,000 of the multimodal transportation account--state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

(3) \$8,600,000 of the multimodal transportation account--state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools; and (b) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; no operating costs for public transit agencies are eligible for funding under this grant program. No additional employees may be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. Additional criteria for selecting grants must include leveraging funds other than state funds.

(4) \$40,000,000 of the regional mobility grant program account--state appropriation is provided solely for the regional mobility grant projects identified on the LEAP Transportation Document 2007-B as developed April 20, 2007. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and any remaining funds

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available to the office of transit mobility shall be used only to fund projects on the LEAP Transportation Document 2007-B as developed April 20, 2007. The department shall provide annual status reports on December 15, 2007, and December 15, 2008, to the office of financial management and the transportation committees of the legislature regarding the projects receiving the grants.

(5) \$17,168,087 of the multimodal transportation account--state appropriation is reappropriated and provided solely for the regional mobility grant projects identified on the LEAP Transportation Document 2006-D, regional mobility grant program projects as developed March 8, 2006. The department shall continue to review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. The department shall promptly close out grants when projects have been completed, and any remaining funds available to the office of transit mobility shall be used only to fund projects on the LEAP Transportation Document 2007-B as developed April 20, 2007, or the LEAP Transportation Document 2006-D as developed March 8, 2006.

(6) \$200,000 of the multimodal transportation account--state appropriation is provided solely for the department to study and then develop pilot programs aimed at addressing commute trip reduction strategies for K-12 students and for college and university students. The department shall submit to the legislature by January 1, 2009, a summary of the program results and recommendations for future student commute trip reduction strategies. The pilot programs are described as follows:

(a) The department shall consider approaches, including mobility education, to reducing and removing traffic congestion in front of schools by changing travel behavior for elementary, middle, and high school students and their parents; and

(b) The department shall design a program that includes student employment options as part of the pilot program applicable to college and university students.

(7) \$2,400,000 of the multimodal account--state appropriation is provided solely for establishing growth and transportation efficiency centers (GTEC). Funds are appropriated for one time only. The department shall provide in its annual report to the legislature an evaluation of the GTEC concept and recommendations on future funding levels.

(8) \$381,000 of the multimodal transportation account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1694 (reauthorizing the agency council on coordinated transportation). If Substitute House Bill No. 1694 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(9) ~~(\$136,000)~~ \$504,000 of the multimodal transportation account--private/local appropriation is provided solely for the implementation of Senate Bill No. 5084 (updating rail transit safety plans). If Senate Bill No. 5084 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(10) \$60,000 of the multimodal transportation account--state appropriation is provided solely for low-income car ownership programs. The department shall collaborate with interested regional transportation planning organizations and metropolitan planning organizations to determine the effectiveness of the programs at providing transportation solutions for low-income persons who depend upon cars to travel to their places of employment.

(11) \$1,000,000 of the multimodal transportation account--state appropriation is provided solely for additional funding for the trip reduction performance program, including telework enhancement projects. Funds are appropriated for one time only.

(12) ~~(\$2,000,000)~~ \$2,309,000 of the multimodal transportation account--state appropriation is provided solely for the tri-county connection service for Island, Skagit, and Whatcom transit agencies.

(13) \$150,000 of the multimodal transportation account--state appropriation is provided solely as a grant for a telework pilot project to be developed, administered, and monitored by the Kitsap regional coordinating council. Funds are appropriated for one time only. The primary purposes of the pilot project are to educate employers about telecommuting, develop telework policies and resources for employers, and reduce traffic congestion by encouraging teleworking in the workplace. As part of the pilot project, the council shall recruit public and private sector employer participants throughout the county, identify telework sites, develop an employer's toolkit consisting of teleworking resources, and create a telecommuting template that may be applied in other communities. The council shall submit to the legislature by July 1, 2009, a summary of the program results and any recommendations for future telework strategies.

Sec. 224. 2007 c 518 s 225 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
MARINE--PROGRAM X**

Puget Sound Ferry Operations Account--State	
Appropriation	(\$412,189,000)
	\$426,761,000
Multimodal Transportation Account--State	
Appropriation	(\$1,830,000)
	\$1,914,000
TOTAL APPROPRIATION	(\$414,019,000)
	\$428,675,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$79,191,000)~~ \$90,299,000 of the Puget Sound ferry operations--state appropriation is provided solely for auto ferry vessel operating fuel in the 2007-2009 biennium.

(2) The Washington state ferries must work with the department's information technology division to implement an electronic fare system, including the integration of the regional fare coordination system (smart card). Each December and June, semiannual updates must be provided to the transportation committees of the legislature concerning the status of implementing and completing this project, with updates concluding the first December after full project implementation.

(3) The Washington state ferries shall continue to provide service to Sidney, British Columbia.

(4) ~~(\$1,830,000)~~ \$1,914,000 of the multimodal transportation account--state appropriation is provided solely to provide passenger-only ferry service. The ferry system shall continue passenger-only ferry service from Vashon Island to Seattle through June 30, 2008. Ferry system management shall continue to implement its agreement with the inlandboatmen's union of the pacific and the international organization of masters, mates and pilots providing for part-time passenger-only work schedules.

(5) \$932,000 of the Puget Sound ferries operations account--state appropriation is provided solely for compliance with department of ecology rules regarding the transfer of oil on or near state waters. Funding for compliance with on-board fueling rules is provided for the 2008 fiscal year. The department may request funding for the 2009 fiscal year if the request is submitted with an alternative compliance plan filed with the department of ecology, as allowed by rule.

(6) \$1,116,000 of the Puget Sound ferry operations account--state appropriation is provided solely for ferry security operations necessary to comply with the ferry security plan submitted by the Washington state ferry system to the United States coast guard. The department shall track security costs and expenditures. Ferry security operations costs shall not be

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included as part of the operational costs that are used to calculate farebox recovery.

(7) \$378,000 of the Puget Sound ferry operations account--state appropriation is provided solely to meet the United States coast guard requirements for appropriate rest hours between shifts for vessel crews on the Bainbridge to Seattle and Edmonds to Kingston ferry routes.

(8) \$694,000 of the Puget Sound ferries operating account--state appropriation is provided solely for implementing Engrossed Substitute House Bill No. 2358 as follows:

(a) The department shall allow the joint transportation committee work group established in section 205(1) of this act to participate in the following elements as they are described in Engrossed Substitute House Bill No. 2358:

(i) Development and implementation of a survey of ferry customers;

(ii) Analysis and reestablishment of vehicle level of service standards. In reestablishing the standards, consideration shall be given to whether boat wait is the appropriate measure. The level of service standard shall be reestablished in conjunction with or after the survey has been implemented;

(iii) Development of pricing policy proposals. In developing these policies, the policies, in effect on some routes, of collecting fares in only one direction shall be evaluated to determine whether one-way fare pricing best serves the ferry system. The pricing policy proposals must be developed in conjunction with or after the survey has been implemented;

(iv) Development of operational strategies. The operational strategies shall be reestablished in conjunction with the survey or after the survey has been implemented;

(v) Development of terminal design standards. The terminal design standards shall be finalized after the provisions of subsections (a)(i) through (iv) and subsection (b) of this section have been developed and reviewed by the joint transportation committee; and

(vi) Development of a capital plan. The capital plan shall be finalized after terminal design standards have been developed by the department and reviewed by the joint transportation committee.

(b) The department shall develop a ridership demand forecast that shall be used in the development of a long-range capital plan. If more than one forecast is developed they must be reconciled.

(c) The department shall update the life cycle cost model to meet the requirements of Engrossed Substitute House Bill No. 2358 no later than August 1, 2007.

(d) The department shall develop a cost allocation methodology proposal to meet the requirements described in Engrossed Substitute House Bill No. 2358. The proposal shall be completed and presented to the joint transportation committee no later than August 1, 2007.

(9) \$200,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the initial acquisition of transportation worker identification credentials required by the United States department of homeland security for unescorted access to secure areas of ferries and terminals.

(10) The legislature finds that a rigorous incident investigation process is an essential component of marine safety. The department is directed to review its accident and incident investigation procedures and report the results of its review with any proposals for changes to the legislature by November 1, 2008.

(11) The department shall allow the use, by two separate drivers, of fare media allowing for multiple discounted vehicle trips aboard Washington state ferries vessels.

(12) Washington state ferries may investigate the implementation of a pilot car-sharing program in the San Juan Islands, in order to reduce the peak auto-load pressures on the inter-island San Juan ferry system and provide a convenient

alternative for the residents of the San Juan Islands. Under the pilot program, inter-island passengers should be able to reserve a car, pay their normal automobile ferry fare, walk on the ferry, and use the shared car upon arrival. The Washington state ferries shall report to the transportation committees of the legislature by November 15, 2008, regarding the feasibility of the pilot program, including whether the difference between the passenger ferry fare and the automobile ferry fare would cover the subsidy costs needed to implement the pilot program.

(13) While developing fare and pricing policy proposals, the department may consider the desirability of reasonable fares for persons using the ferry system to commute daily to work and other frequent users who live in ferry-dependent communities.

(14) \$357,000 of the Puget Sound ferry operations account--state appropriation is for two extra trips per day, beyond the current schedule, from May 19, 2008, through September 8, 2008, at the Port Townsend/Keystone route.

Sec. 225. 2007 c 518 s 226 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--OPERATING

Multimodal Transportation Account--State
Appropriation ((~~\$37,034,000~~))
\$37,010,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The department shall publish a final long-range plan for Amtrak Cascades by September 30, 2007. By December 31, 2008, the department shall submit to the office of financial management and the transportation committees of the legislature a midrange plan for Amtrak Cascades that identifies specific steps the department would propose to achieve additional service beyond current levels.

(2)(a) \$29,091,000 of the multimodal transportation account--state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining the state-supported passenger rail service. Upon completion of the rail platform project in the city of Stanwood, the department shall provide daily Amtrak Cascades service to the city.

(b) The department shall negotiate with Amtrak and Burlington Northern Santa Fe to adjust the Amtrak Cascades schedule to leave Bellingham at a significantly earlier hour.

(c) When Amtrak Cascades expands the second roundtrip between Vancouver, B.C. and Seattle, the department shall negotiate for the second roundtrip to leave Bellingham southbound no later than 8:30 a.m.

(3) No Amtrak Cascade runs may be eliminated.

(4) \$40,000 of the multimodal transportation account--state appropriation is provided solely for the produce railcar program. The department is encouraged to implement the produce railcar program by maximizing private investment.

(5) The department shall begin planning for a third roundtrip Cascades train between Seattle and Vancouver, B.C. by 2010.

Sec. 226. 2007 c 518 s 227 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--OPERATING

Motor Vehicle Account--State Appropriation . . ((~~\$8,630,000~~))
\$8,981,000
Motor Vehicle Account--Federal Appropriation . . . \$2,567,000
TOTAL APPROPRIATION . ((~~\$11,197,000~~))
\$11,548,000

(1) The appropriations in this section are subject to the following conditions and limitations: The department of

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transportation shall provide up to \$2,700,000 in toll credits to Kitsap transit for passenger-only ferry service and up to \$750,000 in toll credits to the port of Kingston for the purchase of a passenger-only ferry vessel. The number of toll credits provided to Kitsap transit and the port of Kingston must be equal to, but no more than, a number sufficient to meet federal match requirements for grant funding for passenger-only ferry service, but shall not exceed the amount authorized under this section. The department may not allocate, grant, or utilize any state or state appropriated or managed federal funds as a match to the federal grant funding on projects to which these toll credits are applied.

(2) \$902,000 of the motor vehicle account--state appropriation is provided solely to Wahkiakum county for operating and maintenance costs of the Puget Island-Westport ferry.

TRANSPORTATION AGENCIES--CAPITAL

Sec. 301. 2007 c 518 s 301 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL

State Patrol Highway Account--State Appropriation
 ~~(\$2,934,000)~~
 \$4,234,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$2,200,000 is provided solely for the following minor works projects: \$195,000 for HVAC renovation at the Chehalis, Kelso, Okanogan, and Ellensburg detachments; \$50,000 for roof replacements at the Toppenish, SeaTac NB, SeaTac SB, and Plymouth weigh stations; \$35,000 for replacement of the Shelton academy roof drain and downspout; \$100,000 for parking lot repairs at Okanogan, Goldendale, Ritzville, and Moses Lake detachment offices and the Wenatchee 6 headquarters; \$290,000 for replacement of the weigh station scales at Brady and Arctic; \$152,000 for carpet replacement at the Ritzville, Moses Lake, Morton, Kelso, Chehalis, Walla Walla, Kennewick, South King, and Hoquiam detachment offices; \$185,000 for HVAC replacement at Tacoma and Marysville detachment offices; \$330,000 for repair and upgrade of the Bellevue tower; \$473,000 for replacement of twenty-one communication site underground fuel tanks; \$240,000 for replacement of communication site buildings at Lind, Scoggans Mountain, and Lewiston Ridge; and \$150,000 for unforeseen emergency repairs.

(2) \$687,000 is provided solely for design and construction of regional waste water treatment systems for the Shelton academy of the Washington state patrol.

(3) \$47,000 is provided solely for predesign of a single, consolidated aviation facility at the Olympia airport to house the fixed wing operations of the Washington state patrol, the department of natural resources (DNR), and the department of fish and wildlife, and the rotary operations of the DNR.

(4) \$1,300,000 of the state patrol highway account--state appropriation is provided solely for the acquisition of land adjacent to the Shelton training academy for anticipated expansion; however, the amount provided in this subsection is contingent on the Washington state patrol adding a surcharge to the rates charged to any other agency or entity that uses the academy in an amount sufficient to defray a share of the expansion costs that is proportionate to the relative volume of use of the academy by such agencies or entities. The surcharge imposed must be sufficient to recover the requisite portion of the academy expansion costs within ten years of the effective date of this subsection.

Sec. 302. 2007 c 518 s 302 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account--State Appropriation \$64,000,000
 Motor Vehicle Account--State Appropriation .. ~~(\$2,368,000)~~
 \$2,370,000
 County Arterial Preservation Account--State
 Appropriation ~~(\$32,861,000)~~
 \$32,641,000
 TOTAL APPROPRIATION .. ~~(\$99,229,000)~~
 \$99,011,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$2,069,000)~~ \$2,370,000 of the motor vehicle account--state appropriation may be used for county ~~(ferries. The board shall review the requests for county ferry funding in consideration with other projects funded from the board. If the board determines these projects are a priority over the projects in the rural arterial and county arterial preservation grant programs, then they may provide funding for these requests))~~ ferry projects as set forth in RCW 47.56.725(4).

(2) The appropriations contained in this section include funding to counties to assist them in efforts to recover from winter storm and flood damage, by providing capitalization advances and local match for federal emergency funding as determined by the county road administration board. The county road administration board shall specifically identify any such selected projects and shall include information concerning them in its next annual report to the legislature.

Sec. 303. 2007 c 518 s 303 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Small City Pavement and Sidewalk Account--State
 Appropriation ~~(\$4,500,000)~~
 \$5,900,000
 Urban Arterial Trust Account--State Appropriation
 ~~(\$129,600,000)~~
 \$126,600,000
 Transportation Improvement Account--State
 Appropriation ~~(\$90,643,000)~~
 \$87,143,000
 TOTAL APPROPRIATION ~~(\$224,743,000)~~
 \$219,643,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The transportation improvement account--state appropriation includes up to \$7,143,000 in proceeds from the sale of bonds authorized in RCW 47.26.500.

(2) The urban arterial trust account--state appropriation includes up to \$15,000,000 in proceeds from the sale of bonds authorized in Substitute House Bill No. 2394. If Substitute House Bill No. 2394 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 304. A new section is added to 2007 c 518 (uncodified) to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION. The nickel and transportation partnership revenue packages were created in 2003 and 2005 to finance transportation construction over a sixteen year period. Since the adoption of the 2003 and 2005 transportation project lists, significant cost increases have resulted from extraordinary inflation. At the same time, motor vehicle fuel prices have risen dramatically, and state and federal gas tax revenues dedicated to paying for these programs are

forecasted to decrease over the sixteen year time period. Additional cost increases and eroding revenues will be difficult, if not impossible, to accommodate in the sixteen year financial plan.

As part of its budget submittal for the 2009-2011 biennium, the department of transportation shall prepare information regarding the nickel and transportation partnership funded projects for consideration by the office of financial management and the legislative transportation committees that:

- (1) Compares the original project cost estimates approved in the 2003 and 2005 project list to the completed cost of the project, or the most recent legislatively approved budget and total project costs for projects not yet completed;
- (2) Identifies highway projects that may be reduced in scope and still achieve a functional benefit;
- (3) Identifies highway projects that have experienced scope increases and that can be reduced in scope;
- (4) Identifies highway projects that have lost significant local or regional contributions which were essential to completing the project; and
- (5) Identifies contingency amounts allocated to projects.

Sec. 305. 2007 c 518 s 304 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)--CAPITAL

Motor Vehicle Account--State Appropriation . . . ~~(\$6,202,000)~~
\$6,255,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$584,000 of the motor vehicle account--state appropriation is for statewide administration.
- (2) ~~(\$750,000)~~ \$803,000 of the motor vehicle account--state appropriation is for regional minor projects.
- (3) \$568,000 of the motor vehicle account--state appropriation is for the Olympic region headquarters property payments.
- (4) By September 1, 2007, the department shall submit to the transportation committees of the legislature predesign plans, developed using the office of financial management's predesign process, for all facility replacement projects to be proposed in the facilities 2008 budget proposal.
- (5) \$1,600,000 of the motor vehicle account--state appropriation is for site acquisition for the Tri-cities area maintenance facility.
- (6) \$2,700,000 of the motor vehicle account--state appropriation is for site acquisition for the Vancouver light industrial facility.
- (7) The department shall work with the office of financial management and staff of the transportation committees of the legislature to develop a statewide inventory of all department-owned surplus property that is suitable for development for department facilities or that should be sold. By December 1, 2008, the department shall report to the joint transportation committee on the findings of this study.

Sec. 306. 2007 c 518 s 305 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--IMPROVEMENTS--PROGRAM I

Transportation Partnership Account--State
 Appropriation ~~(\$1,226,516,000)~~
\$1,109,593,000

Motor Vehicle Account--State Appropriation . . ~~(\$82,045,000)~~
\$87,210,000

Motor Vehicle Account--Federal Appropriation ~~(\$404,090,000)~~

\$457,580,000

Motor Vehicle Account--Private/Local
 Appropriation ~~(\$49,157,000)~~
\$64,487,000

Special Category C Account--State Appropriation
 ~~(\$29,968,000)~~
\$29,125,000

Multimodal Transportation Account--Federal
 Appropriation \$86,100,000

Tacoma Narrows Toll Bridge Account--State
 Appropriation ~~(\$142,484,000)~~
\$32,277,000

Transportation 2003 Account (Nickel Account)--State
 Appropriation ~~(\$1,100,746,000)~~
\$1,147,529,000

~~(\$Freight Congestion Relief Account--State
 Appropriation \$40,000,000)~~

Freight Mobility Multimodal Account--State
 Appropriation \$208,000

TOTAL APPROPRIATION ~~(\$3,075,006,000)~~
 \$3,014,109,000

The appropriations in this section are subject to the following conditions and limitations:

- (1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ~~((2007-1))~~ 2008-1, Highway Improvement Program (I) as developed ~~(April 20, 2007)~~ March 10, 2008. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.
- (2) The department shall not commence construction on any part of the state route number 520 bridge replacement and HOV project until a record of decision has been reached providing reasonable assurance that project impacts will be avoided, minimized, or mitigated as much as practicable to protect against further adverse impacts on neighborhood environmental quality as a result of repairs and improvements made to the state route 520 bridge and its connecting roadways, and that any such impacts will be addressed through engineering design choices, mitigation measures, or a combination of both. The requirements of this section shall not apply to off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.
- (3) Within the amounts provided in this section, ~~(\$1,991,000)~~ \$1,895,000 of the transportation partnership account--state appropriation, ~~(\$1,656,000)~~ \$2,147,000 of the motor vehicle account--federal appropriation, and ~~(\$8,343,000)~~ \$10,331,000 of the transportation 2003 account (nickel account)--state appropriation are for project 109040T as identified in the LEAP transportation document referenced in subsection (1) of this section: I-90/Two Way Transit-Transit and HOV Improvements - Stage 1. Expenditure of the funds on construction is contingent upon revising the access plan for Mercer Island traffic such that Mercer Island traffic will have access to the outer roadway high occupancy vehicle (HOV) lanes during the period of operation of such lanes following the removal of Mercer Island traffic from the center roadway and prior to conversion of the outer roadway HOV lanes to high occupancy toll (HOT) lanes. Sound transit may only have access to the center lanes when alternative R8A is complete.
- (4) The Tacoma Narrows toll bridge account--state appropriation includes up to ~~(\$131,016,000)~~ \$18,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843.
- (5) The funding described in this section includes ~~(\$8,095,541)~~ \$36,693,000 of the transportation 2003 account (nickel account)--state appropriation and ~~(\$237,241~~ of the

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~~motor vehicle account--private/local~~) \$208,000 of the freight mobility multimodal account--state appropriation, which are for the SR 519 project identified as project number 851902A in the LEAP Transportation Document referenced in subsection (1) of this section. The total project is expected to cost no more than \$74,400,000 including ~~(\$11,950,000)~~ \$10,610,000 in contributions from project partners, including Burlington Northern Santa Fe railroad.

(6) To promote and support community-specific noise reduction solutions, the department shall:

(a) Prepare a draft directive that establishes how each community's priorities and concerns may be identified and addressed in order to allow consideration of a community's preferred methods of advanced visual shielding and aesthetic screening, for the purpose of improving the noise environment of major state roadway projects in locations that do not meet the criteria for standard noise barriers. The intent is for these provisions to be supportable by existing project budgets. The directive shall also include direction on the coordination and selection of visual and aesthetic options with local communities. The draft directive shall be provided to the standing transportation committees of the legislature by January 2008; and

(b) Pilot the draft directive established in (a) of this subsection in two locations along major state roadways. If practicable, the department should begin work on the pilot projects while the directive is being developed. One pilot project shall be located in Clark county on a significant capacity improvement project. The second pilot project shall be located in urban King county, which shall be on a corridor highway project through mixed land use areas that is nearing or under construction. The department shall provide a written report to the standing transportation committees of the legislature on the findings of the Clark county pilot project by January 2009, and the King county pilot project by January 2010. Based on results of the pilot projects, the department shall update its design manual, environmental procedures, or other appropriate documents to incorporate the directive.

~~((8))~~ (7) If the "Green Highway" provisions of Engrossed Second Substitute House Bill No. 1303 (cleaner energy) are enacted, the department shall erect signs on the interstate highways included in those provisions noting that these interstates have been designated "Washington Green Highways."

~~((9))~~ (8) If on the I-405/I-90 to SE 8th Street Widening project the department finds that there is an alternative investment to preserve reliable rail accessibility to major manufacturing sites within the I-405 corridor that are less expensive than replacing the Wilburton Tunnel, the department may enter into the necessary agreements to implement that alternative provided that costs remain within the approved project budget.

~~((11))~~ (9) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P, including, but not limited to, the SR 518, SR 519, SR 520, and Alaskan Way Viaduct projects.

~~((12))~~ (10) \$250,000 of the motor vehicle account--state appropriation ~~((15))~~ and \$226,000 of the motor vehicle account--federal appropriation are provided solely for an inland pacific hub study to develop an inland corridor for the movement of freight and goods to and through eastern Washington; and \$500,000 of the motor vehicle account--state appropriation is provided solely for the SR3/SR16 corridor study to plan and prioritize state and local improvements needed over the next 10-20 years to support safety, capacity development, and economic development within the corridor.

~~((13))~~ (11) The department shall, on a quarterly basis beginning July 1, 2007, provide to the office of financial management and the legislature reports providing the status on

each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account and transportation 2003 account (nickel account) projects relating to bridge rail, guard rail, fish passage barrier removal, and roadside safety projects should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

~~((14))~~ (12) The department shall apply for the competitive portion of federal transit administration funds for eligible transit-related costs of the SR 520 bridge replacement and HOV project. The federal funds described in this subsection shall not include those federal transit administration funds distributed by formula.

~~((15))~~ (13) Funding provided by this act for the Alaskan Way Viaduct project shall not be spent for preliminary engineering, design, right-of-way acquisition, or construction on the project if completion of the project would more likely than not reduce the capacity of the facility. Capacity shall be measured by including the consideration of the efficient movement of people and goods on the facility.

~~((16))~~ (14) The governor shall convene a collaborative process involving key leaders to determine the final project design for the Alaskan Way Viaduct.

(a) The process shall be guided by the following common principles: Public safety must be maintained; the final project shall meet both capacity and mobility needs; and taxpayer dollars must be spent responsibly.

(b) The state's project expenditures shall not exceed \$2,800,000,000.

(c) A final design decision shall be made by December 31, 2008.

~~((17))~~ (15) During the 2007-09 biennium, the department shall proceed with a series of projects on the Alaskan Way Viaduct that are common to any design alternative. Those projects include relocation of two electrical transmission lines, Battery Street tunnel upgrades, seismic upgrades from Lenora to the Battery Street tunnel, viaduct removal from Holgate to King Street, and development of transit enhancements and other improvements to mitigate congestion during construction.

~~((18))~~ ~~The entire freight congestion relief account--state appropriation is contingent upon the enactment during the 2007-2009 fiscal biennium of a bill, resulting from the study established in Substitute Senate Bill No. 5207, that makes available funding to support project expenditures funded from the freight congestion relief account created in Substitute Senate Bill No. 5207. If such a funding bill is not enacted by June 30, 2009, the entire freight congestion relief account--state appropriation shall lapse.~~

~~((19))~~ (16) The transportation 2003 account (nickel account)--state appropriation includes up to ~~(\$874,610,000)~~ \$825,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.

~~((20))~~ (17) The transportation partnership account--state appropriation includes up to ~~(\$900,000,000)~~ \$740,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

~~((21))~~ (18) The special category C account--state appropriation includes up to ~~(\$22,080,000)~~ \$21,497,000 in proceeds from the sale of bonds authorized in Substitute House Bill No. 2394. If Substitute House Bill No. 2394 is not enacted

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by June 30, 2007, the amount provided in this subsection shall lapse.

~~((22))~~ (19) \$4,500,000 of the motor vehicle account--federal appropriation is provided solely for cost increases on the SR 304/Bremerton tunnel project.

~~((23) \$3,000,000)~~ (20) \$2,071,000 of the motor vehicle account--~~(state)~~ federal appropriation is provided solely for initial design and right of way work on a new southbound SR 509 to eastbound SR 518 freeway-to-freeway elevated ramp.

~~((24))~~ (21) \$500,000 of the motor vehicle account--federal appropriation to the SR 543/I-5 to Canadian border project is provided solely for retaining wall facia improvements.

~~((25) \$1,400,000)~~ (22) \$950,000 of the motor vehicle account--federal appropriation ~~((is))~~ and \$24,000 of the motor vehicle account--state appropriation are provided solely for the Westview school noise wall.

~~((26))~~ (23) \$1,600,000 of the motor vehicle account--~~(federal)~~ state appropriation is provided solely for two noise walls on SR 161 in King county.

~~((27))~~ (24) ~~(\$900,000)~~ \$20,000 of the motor vehicle account--state appropriation and ~~(\$100,000)~~ \$280,000 of the motor vehicle account--federal appropriation are provided solely for interchange design and planning work on US 12 at A street and tank farm road.

(25) The funding described in this section includes \$19,939,000 of the transportation partnership account--state appropriation, \$29,000 of the motor vehicle account--state appropriation, \$308,000 of the motor vehicle account--private/local appropriation, and \$17,900,000 of the motor vehicle account--federal appropriation for the I-5/Columbia river crossing/Vancouver project. The funding described in this subsection includes up to \$15,000,000 awarded to Washington and Oregon jointly through the U.S. department of transportation corridors of the future program in the 2007 federal highway authority discretionary fund allocations.

(26) The department shall study any outstanding issues, including financial issues that may apply to the I-5/Columbia river crossing/Vancouver project. The department's efforts must include an analysis of current bi-state efforts in planning, coordination, and funding for the project; opportunities for the joining of state and local government agencies and the private sector in a strong partnership that contributes to the completion of the project; and opportunities to work with the congressional delegations of Oregon and Washington to provide federal funding and other assistance that will advance this project of national and regional significance.

(27) \$1,500,000 of the motor vehicle account--federal appropriation and \$4,908,000 of the transportation partnership account--state appropriation are provided solely for project I09040Q as identified in the LEAP transportation document in subsection (1) of this section: I-90/Two-Way Transit-Transit and HOV Improvements, Stages 2 and 3. Of these amounts, up to \$550,000 of the transportation partnership account--state appropriation is to provide funding for an independent technical review, overseen by the joint transportation committee, of light rail impacts on the Interstate 90 - Homer Hadley Floating Bridge. The technical review shall complement sound transit's current and planned engineering design work to expand light rail in the central Puget Sound region. The department shall coordinate its work with sound transit and seek contributions from sound transit for the review.

(28) \$1,400,000 of the motor vehicle account--state appropriation is provided solely for safety improvements on US Highway 2 between Monroe and Gold Bar. Additional project funding of \$8,600,000 is assumed in the 2009-2011 biennium, bringing the total project funding to \$10,000,000. This high priority safety project will provide safety enhancements on US Highway 2 between Gold Bar and Monroe, such as a passing lane or interchange/turning lane improvements. The department

shall seek input from the US Highway 2 safety coalition to select projects that will help reduce fatalities on this corridor.

(29) \$2,267,000 of the motor vehicle account--federal appropriation, \$218,500 of the motor vehicle account--state appropriation, and \$1,500,000 of the motor vehicle account--private/local appropriation are provided solely for installing centerline rumble strips and related improvements on US Highway 2 between Monroe and Sultan. The section of US Highway 2 from Monroe to Deception Creek has a high frequency of centerline crossover collisions. By installing centerline rumble strips, the project will reduce the risk of crossover collisions. This project will also place shoulder rumble strips between Monroe and Sultan.

(30) \$1,500,000 of the motor vehicle account--state appropriation is provided solely for the SR 28/E End of the George Sellar bridge (202802V) for the purpose of funding a pedestrian tunnel connection. This funding is provided in anticipation of a federal grant specific to this project, which, if received, must be used to reimburse the state funding provided in this subsection.

(31) For the period of preconstruction tolling on the state route 520 bridge, the department shall develop improvements of traffic flow from the eastern Lake Washington shoreline to 108th avenue northeast in Bellevue including:

(a) Near-term, low-cost enhancements which relocate the high-occupancy vehicle lanes to the inside of the alignment; and

(b) A plan for an accelerated improvement project for the construction of median flyer stops, reconfiguration of interchanges, addition of direct access ramps, community enhancement lids, and pedestrian/bike path connections.

The department shall report to the joint transportation committee by September 1, 2008, on the short-term low-cost improvement plans and include in their budget submittal to the office of financial management a proposal for the accelerated improvement project.

Sec. 307. 2007 c 518 s 306 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
PRESERVATION--PROGRAM P**

Transportation Partnership Account--State	
Appropriation	(\$220,164,000)
	\$181,666,000
Motor Vehicle Account--State Appropriation .	(\$71,392,000)
	\$86,540,000
Motor Vehicle Account--Federal Appropriation	(\$425,161,000)
	\$463,338,000
Motor Vehicle Account--Private/Local Appropriation	
.....	(\$15,285,000)
	\$18,138,000
Transportation 2003 Account (Nickel Account)--State	
Appropriation	(\$5,122,000)
	\$11,136,000
Puyallup Tribal Settlement Account--State	
Appropriation	(\$11,000,000)
	\$12,500,000
TOTAL APPROPRIATION	(\$748,124,000)
	\$773,318,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ((2007-1) 2008-1, Highway Preservation Program (P) as developed ((April 20, 2007)) March 10, 2008. However, limited transfers of specific line-item project appropriations may

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occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) ~~(\$295,000)~~ \$287,000 of the motor vehicle account--federal appropriation and ~~(\$5,000)~~ \$11,000 of the motor vehicle account--state appropriation are provided solely for the department to determine the most cost efficient way to replace the current Keller ferry. Options reviewed shall not include an expansion of the current capacity of the Keller ferry.

(3) ~~(\$5,513,000)~~ \$5,308,000 of the transportation partnership account--state appropriation is provided solely for the purposes of settling all identified and potential claims from the Lower Elwha Klallam Tribe related to the construction of a graving dock facility on the graving dock property. In the matter of *Lower Elwha Klallam Tribe et al v. State et al*, Thurston county superior court, cause no. 05-2-01595-8, the Lower Elwha Klallam Tribe and the state of Washington entered into a settlement agreement that settles all claims related to graving dock property and associated construction and releases the state from all claims related to the construction of the graving dock facilities. The expenditure of this appropriation is contingent on the conditions and limitations set forth in subsections (a) and (b) of this subsection.

(a) \$2,000,000 of the transportation partnership account--state appropriation is provided solely for the benefit of the Lower Elwha Klallam Tribe to be disbursed by the department in accordance with terms and conditions of the settlement agreement.

(b) ~~(\$3,513,000)~~ \$3,308,000 of the transportation partnership account--state appropriation is provided solely for the department's remediation work on the graving dock property in accordance with the terms and conditions of the settlement agreement.

(4) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P, including, but not limited to, the SR 518, SR 519, SR 520, and Alaskan Way Viaduct projects.

(5) The department shall, on a quarterly basis beginning July 1, 2007, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account projects relating to seismic bridges should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(6) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(7) ~~(\$2,604,501)~~ \$13,257,000 of the motor vehicle account--federal appropriation and ~~(\$3,000,000)~~ \$5,000,000 of the motor vehicle account--state appropriation are for expenditures on damaged state roads due to flooding, mudslides, rock fall, or other unforeseen events.

(8) ~~(\$9,665)~~ \$188,000 of the motor vehicle account--state appropriation, ~~(\$12,652,812)~~ \$28,749,000 of the motor vehicle account--federal appropriation, and ~~(\$138,174,581)~~

\$105,653,000 of the transportation partnership account--state appropriation are provided solely for the Hood Canal bridge project.

(9) \$12,500,000 of the Puyallup tribal settlement account--state appropriation is provided solely for mitigation costs associated with the Murray Morgan/11th Street Bridge demolition. The department may negotiate with the city of Tacoma for the purpose of transferring ownership of the Murray Morgan/11th Street Bridge to the city. If the city agrees to accept ownership of the bridge, the department may use the Puyallup tribal settlement account appropriation and other appropriated funds for bridge rehabilitation, bridge replacement, bridge demolition, and related mitigation. In no event shall the department's participation exceed \$39,953,000. No funds may be expended unless the city of Tacoma agrees to take ownership of the bridge in its entirety and provides that the payment of these funds extinguishes any real or implied agreements regarding future bridge expenditures.

Sec. 308. 2007 c 518 s 307 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
TRAFFIC OPERATIONS--PROGRAM Q--CAPITAL**

Motor Vehicle Account--State Appropriation . . .	(\$9,212,000)
	\$9,462,000
Motor Vehicle Account--Federal Appropriation . . .	\$15,951,000
Motor Vehicle Account--Private/Local Appropriation . . .	\$74,000
TOTAL APPROPRIATION . . .	(\$25,237,000)
	<u>\$25,487,000</u>

The appropriations in this section are subject to the following conditions and limitations: The motor vehicle account--state appropriation includes ~~(\$8,833,000)~~ \$8,959,335 provided solely for state matching funds for federally selected competitive grant or congressional earmark projects. These moneys shall be placed into reserve status until such time as federal funds are secured that require a state match.

Sec. 309. 2007 c 518 s 308 (uncodified) is amended to read as follows:

**DEPARTMENT OF TRANSPORTATION||WASHINGTON
STATE FERRIES CONSTRUCTION--PROGRAM WFOR
THE DEPARTMENT OF TRANSPORTATION--
WASHINGTON STATE FERRIES CONSTRUCTION--
PROGRAM W**

Puget Sound Capital Construction Account--State Appropriation	(\$139,139,000)
	\$142,250,000
Puget Sound Capital Construction Account--Federal Appropriation	(\$66,145,000)
	\$45,259,000
<u>Puget Sound Capital Construction Account-- Private/Local Appropriation</u>	<u>\$2,089,000</u>
Multimodal Transportation Account--State Appropriation	\$4,100,000
Transportation 2003 Account (Nickel Account)--State Appropriation	(\$76,525,000)
	\$59,469,000
TOTAL APPROPRIATION	(\$285,909,000)
	<u>\$253,167,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$6,432,000)~~ \$36,500,000 of the Puget Sound capital construction account--state appropriation is provided solely for ~~(emergency capital costs)~~ project 944470A as identified in the LEAP Transportation Document 2008-1, Ferries Construction Program (W) as developed March 10, 2008, for the construction of three marine vessels to replace the steel electric auto ferry

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vessels. The document includes a total of \$84,500,000 for these replacement vessels.

(2) ~~(\$16,567,000)~~ \$21,460,823 of the Puget Sound capital construction account--state appropriation ~~(and)~~, \$4,100,000 of the multimodal transportation account--state appropriation, \$5,410,000 of the transportation 2003 account ~~(nickel account)--state appropriation, \$4,490,000 of the Puget Sound capital construction account--federal appropriation, and \$2,089,000 of the Puget Sound capital construction account--private/local appropriation~~ are provided solely for the terminal projects listed:

(a) Anacortes ferry terminal - utilities work; right-of-way purchase for a holding area during construction; and completion of design and permitting on the terminal building, pick-up and drop-off sites, and pedestrian and bicycle facilities;

(b) Bainbridge Island ferry terminal - environmental planning and a traffic signalization project in the vicinity of SR 305 Harborview drive;

(c) Bremerton ferry terminal - overhead loading control system and moving the terminal agent's office;

(d) Clinton ferry terminal - septic system replacement;

(e) Edmonds ferry terminal - right-of-way acquisition costs ~~(and)~~, federal match requirements, and removal of Unocal Pier;

(f) Friday Harbor ferry terminal - parking resurfacing;

(g) Keystone and Port Townsend ferry terminals - route environmental planning;

(h) Kingston ferry terminal - transfer span retrofit and overhead vehicle holding control system modifications;

(i) Mukilteo ferry terminal - right-of-way acquisition, archaeological studies, ~~(and)~~ environmental planning, and additional vehicle holding;

(j) Orcas ferry terminal - dolphin replacement;

(k) Port Townsend ferry terminal - wingwall replacement, interim holding, tie-up slip, and initial reservation system;

~~(h)~~ (l) Seattle ferry terminal - environmental planning, coordination with local jurisdictions, ~~(and)~~ coordination with highway projects, and contractor payment for automated re-entry gates; ~~(and)~~

~~(h)~~ (m) Southworth ferry terminal - federal grant to conduct preliminary studies and planning for a 2nd operating slip; and

(n) Vashon Island and Seattle ferry terminals - modify the passenger-only facilities.

~~(\$76,525,000)~~ (3) \$46,020,666 of the transportation 2003 account ~~(nickel account)--state appropriation and (\$50,985,000)~~ \$3,750,000 of the Puget Sound capital construction account--~~(state)~~ federal appropriation are provided solely for the procurement of ~~(four)~~ up to three 144-vehicle auto-passenger ferry vessels.

~~(5)~~ (4) \$18,716,000 of the Puget Sound capital construction account--state appropriation is provided solely for the Eagle Harbor maintenance facility preservation project. These funds may not be used for relocating any warehouses not currently on the Eagle Harbor site.

~~(6)~~ (5) The department shall research an asset management system to improve Washington state ferries' management of capital assets and the department's ability to estimate future preservation needs. The department shall report its findings regarding a new asset management system to the governor and the transportation committees of the legislature no later than January 15, 2008.

~~(7)~~ (6) The department shall sell the M.V. Chinook and M.V. Snohomish passenger-only fast ferries as soon as practicable and deposit the proceeds of the sales into the passenger ferry account created in RCW 47.60.645. Once the department ceases to provide passenger-only ferry service, the department shall sell the M.V. Kalama and M.V. Skagit passenger-only ferries and deposit the proceeds of the sales into the passenger ferry account created in RCW 47.60.645.

~~(8)~~ (7) The department shall, on a quarterly basis beginning July 1, 2007, provide to the office of financial management and the legislature reports providing the status on each project listed in this section and in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2007-09 fiscal biennium. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS).

(8) \$1,105,000 of the Puget Sound capital construction account--state appropriation and \$8,038,000 of the transportation 2003 account ~~(nickel account)--state appropriation~~ are provided solely for a dolphin replacement project at the Vashon Island ferry terminal. The department shall submit a predesign study to the joint transportation committee before beginning design or construction of this project.

(9) The department of transportation is authorized to sell up to \$105,000,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.

(10) The department shall review the costs and benefits of continued use of the primavera scheduling system in the Washington state ferries marine division and include that review with its 2009-2011 budget submittal.

(11) The department shall review staffing in its capital engineering divisions to ensure core competency in, and a focus on, terminal and vessel preservation, with staffing sufficient to implement the preservation program in the capital plan. Until the completion of the capital plan, the department shall maintain capital staffing levels at or below the level of staffing on January 1, 2008.

(12) The department shall sell, be in the process of selling, or otherwise dispose of the four steel electric auto-ferry vessels in the most cost effective way practicable no later than June 1, 2008.

Sec. 310. 2007 c 518 s 309 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--CAPITAL

Essential Rail Assistance Account--State Appropriation	\$500,000
(Freight Congestion Relief Account--State Appropriation \$25,000,000)
Transportation Infrastructure Account--State Appropriation (\$2,500,000)
	\$1,713,000
Transportation Infrastructure Account--Federal Appropriation \$787,000
Multimodal Transportation Account--State Appropriation (\$154,637,000)
	\$165,512,000
Multimodal Transportation Account--Federal Appropriation (\$30,450,000)
	\$33,906,000
Multimodal Transportation Account--Private/Local Appropriation (\$7,894,000)
	\$2,659,000
TOTAL APPROPRIATION	(\$220,981,000)
	\$205,077,000

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) Except as provided otherwise in ~~(subsection (8) of)~~ this section, the entire appropriations in this section are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ~~(2007-~~+) 2008-1, Rail Capital Program (Y) as developed ~~(April 20,~~

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2007)) March 10, 2008. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(b) Within the amounts provided in this section, ~~(\$2,500,000)~~ \$1,713,000 of the transportation infrastructure account--state appropriation ~~(is)~~ and \$787,000 of the transportation infrastructure account--federal appropriation are for low-interest loans for rail capital projects through the freight rail investment bank program. The department shall issue a call for projects based upon the legislative priorities specified in subsection (7)(a) of this section. Application must be received by the department by ~~(November 1, 2007)~~ October 1, 2008. By ~~(December 1, 2007)~~ November 1, 2008, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature. The department shall award low-interest loans to the port of Moses Lake in the amount of \$213,000, and based upon the prioritized list of rail capital projects most recently submitted to the legislature pursuant to this subsection, as follows: Port of Benton County (\$250,000); Port of Everett (\$250,000); Central Terminals, LLC (\$250,000); Tacoma Rail--Maintenance Facility (\$250,000); NW Container Service (\$250,000); Port of Chehalis (\$250,000); Ballard Terminal Railroad (\$250,000); Eastern Washington Gateway Railroad (\$36,875); Spokane County (\$250,000); Tacoma Rail--Locomotive Idling (\$250,000).

(c) Within the amounts provided in this section, ~~(\$3,335,000)~~ \$2,561,000 of the multimodal transportation account--state appropriation is for statewide - emergent freight rail assistance projects. However, the department shall perform a cost/benefit analysis of the projects according to the legislative priorities specified in subsection (7)(a) of this section, and shall give priority to the following projects: Rail - Tacoma rail yard switching upgrades (\$500,000); Rail - Port of Ephrata spur rehabilitation (\$127,000); Rail - Lewis and Clark rail improvements (\$1,100,000); Rail - Port of Grays Harbor rail access improvements (\$543,000); and Rail - Port of Longview rail loop construction (\$291,000)~~(and Rail - Port of Chehalis (\$774,000))~~. If the relative cost of any of the six projects identified in this subsection (1)(c) is not substantially less than the public benefits to be derived from the project, then the department shall not assign the funds to the project, and instead shall use those funds toward those projects identified by the department in the attachments to the "Washington State Department of Transportation FREIGHT RAIL ASSISTANCE FUNDING PROGRAM: 2007-2009 Prioritized Project List and Program Update" dated December 2006 for which the proportion of public benefits to be gained compared to the cost of the project is greatest.

~~(d) (Within the amounts provided in this section, \$25,000,000 of the freight congestion relief account--state appropriation is for modifications to the Stampede Pass rail tunnel to facilitate the movement of double stacked rail cars. The department shall quantify and report to the legislature by December 1, 2007, the volume of freight traffic that would likely be shipped by rail rather than trucks if the Stampede Pass rail tunnel were modified to accommodate double stacked rail cars.~~

~~(e))~~ Within the amounts provided in this section, ~~(\$200,000)~~ \$339,000 of the multimodal transportation account--state appropriation is for rescoping and completion of required environmental documents for the Kelso to Martin's Bluff - 3rd Mainline and Storage Tracks project. The rescoped project may include funds that are committed to the project by local or private funding partners. However, the rescoped project must be capable of being completed with not more than \$49,470,000 in future state funding, inclusive of inflation costs.

Subject to this funding constraint, the rescoped project must maximize capacity improvements along the rail mainline.

~~((f))~~ (e) Within the amounts provided in this section, \$3,600,000 of the multimodal transportation account--state appropriation is for work items on the Palouse River and Coulee City Railroad lines.

(2) The multimodal transportation account--state appropriation includes up to ~~(\$137,620,000)~~ \$144,500,000 in proceeds from the sale of bonds authorized by RCW 47.10.867.

(3) The department is directed to seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Program Y, including, but not limited to the "Tacoma -- bypass of Pt. Defiance" project.

(4) If new federal funding for freight or passenger rail is received, the department shall consult with the transportation committees of the legislature and the office of financial management prior to spending the funds on existing or additional projects.

(5) The department shall sell any ancillary property, acquired when the state purchased the right-of-ways to the PCC rail line system, to a lessee of the ancillary property who is willing to pay fair market value for the property. The department shall deposit the proceeds from the sale of ancillary property into the transportation infrastructure account.

~~(6) (The entire freight congestion relief account--state appropriation is contingent upon the enactment during the 2007-2009 fiscal biennium of a bill, resulting from the study established in Substitute Senate Bill No. 5207, that makes available funding to support project expenditures funded from the freight congestion relief account created in Substitute Senate Bill No. 5207. If such a funding bill is not enacted by June 30, 2009, the entire freight congestion relief account--state appropriation shall lapse.~~

~~(7))~~(a) The department shall develop and implement the benefit/impact evaluation methodology recommended in the statewide rail capacity and needs study finalized in December 2006. The benefit/impact evaluation methodology shall be developed using the following priorities, in order of relative importance:

(i) Economic, safety, or environmental advantages of freight movement by rail compared to alternative modes;

(ii) Self-sustaining economic development that creates family-wage jobs;

(iii) Preservation of transportation corridors that would otherwise be lost;

(iv) Increased access to efficient and cost-effective transport to market for Washington's agricultural and industrial products;

(v) Better integration and cooperation within the regional, national, and international systems of freight distribution; and

(vi) Mitigation of impacts of increased rail traffic on communities.

(b) The department shall convene a work group to collaborate on the development of the benefit/impact analysis method to be used in the evaluation. The work group must include, at a minimum, the freight mobility strategic investment board, the department of agriculture, and representatives from the various users and modes of the state's rail system.

(c) The department shall use the benefit/impact analysis and priorities in (a) of this subsection when submitting requests for state funding for rail projects. The department shall develop a standardized format for submitting requests for state funding for rail projects that includes an explanation of the analysis undertaken, and the conclusions derived from the analysis.

(d) The department and the freight mobility strategic investment board shall collaborate to submit a report to the office of financial management and the transportation committees of the legislature by September 1, 2008, listing proposed freight highway and rail projects. The report must

describe the analysis used for selecting such projects, as required by this act for the department and as required by chapter 47.06A RCW for the board. When developing its list of proposed freight highway and rail projects, the freight mobility strategic investment board shall use the priorities identified in (a) of this subsection to the greatest extent possible.

~~((8) \$5,000,000 of the multimodal transportation account--state appropriation is reappropriated and provided solely for the costs of acquisition of the PCC railroad associated with the memorandum of understanding (MOU), which was executed between Washington state and Watco. Total costs associated with the MOU shall not exceed \$10,937,000.))~~

(7) The department shall apply at the earliest possible date for grants, pursuant to the new competitive intercity rail grant program announced by the federal railroad administration on February 19, 2008, for any projects that may qualify for such federal grants and are currently identified on the project list referenced in subsection (1)(a) of this section.

(8) Up to \$8,500,000 of any underexpenditures of state funding designated on the project list referenced in subsection (1)(a) of this section for the "Vancouver-Rail Bypass and W 39th Street Bridge" project may be used to upgrade, to class 2 condition, track owned by Clark county between Vancouver and Battle Ground.

(9) Up to \$400,000 of the multimodal transportation account--state appropriation is contingent upon the port of Chehalis submitting a full copy of the FEMA application packet to the department in order to assist the department in verifying the scope of the repairs and the rail transportation value of the project identified on the project list referenced in subsection (1)(a) of this section as "Port of Chehalis-Track Rehabilitation" (F01002A).

Sec. 311. 2007 c 518 s 310 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--
LOCAL PROGRAMS--PROGRAM Z--CAPITAL**

Highway Infrastructure Account--State Appropriation	\$207,000
Highway Infrastructure Account--Federal	
Appropriation	\$1,602,000
Freight Mobility Investment Account--State	
Appropriation	((12,500,000))
	\$12,378,000
((Freight Congestion Relief Account--State	
 Appropriation	(\$46,720,000))
Transportation Partnership Account--State	
Appropriation	((2,906,000))
	\$3,906,000
Motor Vehicle Account--State Appropriation	((9,854,000))
	\$12,870,000
Motor Vehicle Account--Federal Appropriation	((60,150,000))
	\$63,823,000
Freight Mobility Multimodal Account--State	
Appropriation	((12,100,000))
	\$12,750,000
<u>Freight Mobility Multimodal Account--</u>	
<u> Private/Local Appropriation</u>	<u>\$3,755,000</u>
Multimodal Transportation Account--Federal	
Appropriation	((3,500,000))
	\$4,224,000
Multimodal Transportation Account--State	
Appropriation	((33,158,000))
	\$32,134,000
Transportation 2003 Account (Nickel Account)--State	
Appropriation	((2,706,000))
	\$2,721,000
Passenger Ferry Account--State Appropriation	\$8,500,000
TOTAL APPROPRIATION	((193,903,000))

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects as outlined in the project lists incorporated in this section. For projects funded by new revenue in the 2003 and 2005 transportation packages, reporting elements shall include, but not be limited to, project scope, schedule, and costs. Other projects may be reported on a programmatic basis. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information system (TEIS).

(2) \$8,500,000 of the passenger ferry account--state appropriation is provided solely for near and long-term costs of capital improvements in a business plan approved by the governor for passenger ferry service.

(3) The department shall seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(4) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(5) Federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the office of financial management. The department shall submit a report on those projects receiving fund transfers to the office of financial management and the transportation committees of the legislature by December 1, 2007, and December 1, 2008.

(6) The city of Winthrop may utilize a design-build process for the Winthrop bike path project. Of the amount appropriated in this section for this project, \$500,000 of the multimodal transportation account--state appropriation is contingent upon the state receiving from the city of Winthrop \$500,000 in federal funds awarded to the city of Winthrop by its local planning organization.

(7) ~~((7,000,000))~~ \$11,591,224 of the multimodal transportation account--state appropriation, ~~((7,000,000))~~ \$8,640,239 of the motor vehicle account--federal appropriation, and \$4,000,000 of the motor vehicle account--federal appropriation are provided solely for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in the LEAP Transportation Document 2007-A, pedestrian and bicycle safety program projects and safe routes to schools program projects as developed April 20, 2007. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

(8) Up to a maximum of \$5,000,000 of the multimodal transportation account--state appropriation and up to a maximum of \$2,000,000 of the motor vehicle account--federal appropriation are reappropriated for the pedestrian and bicycle safety program projects and safe routes to schools program

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projects identified in the LEAP transportation document 2006-B, pedestrian and bicycle safety program projects and safe routes to schools program projects as developed March 8, 2006. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

~~(9) ((The entire freight congestion relief account--state appropriation is contingent upon the enactment during the 2007-2009 fiscal biennium of a bill, resulting from the study established in Substitute Senate Bill No. 5207, that makes available funding to support project expenditures funded from the freight congestion relief account created in Substitute Senate Bill No. 5207. If such a funding bill is not enacted by June 30, 2009, the entire freight congestion relief account--state appropriation shall lapse.~~

~~((+0))~~ \$3,500,000 of the multimodal transportation account--federal appropriation is provided solely for the Museum of Flight pedestrian bridge safety project.

~~((+1))~~ (10) \$250,000 of the multimodal transportation account--state appropriation is provided solely for the icicle rail station in Leavenworth.

~~((+2))~~ (11) \$1,500,000 of the motor vehicle account--state appropriation is provided solely for the Union Gap city road project.

~~((+3) \$350,000)~~ (12) \$250,000 of the motor vehicle account--state appropriation is provided solely for the Saltwater state park bridge project and off-site traffic control costs.

~~((+4))~~ (13) \$1,000,000 of the motor vehicle account--state appropriation ~~((+5))~~ and \$4,688,000 of the motor vehicle account--federal appropriation are provided solely for the coal creek parkway project.

~~((+5))~~ (14) \$250,000 of the multimodal transportation account--state appropriation is provided solely for a streetcar feasibility study in downtown Spokane.

~~((+6))~~ (15) \$500,000 of the motor vehicle account--~~((state))~~ federal appropriation is provided solely for ~~((the))~~ slide repairs completed during 2007 and 2008 at or in the vicinity of marine view drive bridge ((project)) on Marine View Drive and on Des Moines Memorial Drive in Des Moines.

(16) \$1,100,000 of the motor vehicle account--state appropriation is provided solely for local road improvements that connect to the I-82 valley mall boulevard project (5082010). Planned funding of an additional \$2,000,000 shall be made available to this project in the 2009-11 biennium.

(17) \$2,400,000 of the motor vehicle account--state appropriation is provided solely for completion of the riverside avenue extension project in the city of Spokane.

(18) For the 2007-09 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects managed by the freight mobility strategic investment board, in order for the board to manage project spending and efficiently deliver all projects in the respective program.

TRANSFERS AND DISTRIBUTIONS

Sec. 401. 2007 c 518 s 401 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE

Highway Bond Retirement Account Appropriation	((\$570,030,000))
	<u>\$544,061,000</u>
Ferry Bond Retirement Account Appropriation	((\$38,059,000))
	<u>\$37,380,000</u>
Transportation Improvement Board Bond Retirement Account--State Appropriation	((\$27,749,000))
	<u>\$26,822,000</u>
Nondebt-Limit Reimbursable Account Appropriation	((\$19,359,000))
	<u>\$13,059,000</u>
Transportation Partnership Account--State Appropriation	((\$6,694,000))
	<u>\$1,823,000</u>
Motor Vehicle Account--State Appropriation	((\$986,000))
	<u>\$457,000</u>
Transportation Improvement Account--State Appropriation	\$68,000
Multimodal Transportation Account--State Appropriation	((\$1,032,000))
	<u>\$675,000</u>
Transportation 2003 Account (Nickel Account)--State Appropriation	((\$6,560,000))
	<u>\$2,003,000</u>
Urban Arterial Trust Account--State Appropriation	((\$473,000))
	<u>\$113,000</u>
Special Category C Account Appropriation	((\$160,000))
	<u>\$99,000</u>
TOTAL APPROPRIATION	((\$671,170,000))
	<u>\$626,560,000</u>

Sec. 402. 2007 c 518 s 402 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

Transportation Partnership Account--State Appropriation	((\$2,254,000))
	<u>\$243,000</u>
Motor Vehicle Account--State Appropriation	((\$329,000))
	<u>\$61,000</u>
Transportation Improvement Account--State Appropriation	\$5,000
Multimodal Transportation Account--State Appropriation	((\$130,000))
	<u>\$90,000</u>
Transportation 2003 Account (Nickel Account)--State Appropriation	((\$2,187,000))
	<u>\$267,000</u>
Urban Arterial Trust Account--State Appropriation	\$38,000
Special Category C Account--State Appropriation	((\$53,000))
	<u>\$13,000</u>
TOTAL APPROPRIATION	((\$4,996,000))
	<u>\$717,000</u>

Sec. 403. 2007 c 518 s 403 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND

REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS

~~((+))~~ Motor Vehicle Account--State Reappropriation: For transfer to the Tacoma Narrows Toll Bridge Account ~~(\$131,016,000)~~ \$19,133,000

The department of transportation is authorized to sell up to ~~(\$131,016,000)~~ \$18,000,000 in bonds authorized by RCW 47.10.843 for the Tacoma Narrows bridge project. Proceeds from the sale of the bonds shall be deposited into the motor vehicle account. The department of transportation shall inform the treasurer of the amount to be deposited.

~~((2))~~ Motor Vehicle Account--State Appropriation: For transfer to the Puget Sound Capital Construction Account ~~\$131,500,000~~

~~The department of transportation is authorized to sell up to \$131,500,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.)~~

Sec. 404. 2007 c 518 s 404 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account Appropriation for motor vehicle fuel tax distributions to cities and counties ~~(\$526,320,000)~~ \$501,783,827

Sec. 405. 2007 c 518 s 405 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--TRANSFERS

Motor Vehicle Account--State Appropriation: For motor vehicle fuel tax refunds and statutory transfers ~~(\$937,181,000)~~ \$902,982,000

Sec. 406. 2007 c 518 s 406 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING--TRANSFERS

Motor Vehicle Account--State Appropriation: For motor vehicle fuel tax refunds and transfers ~~(\$346,657,000)~~ \$445,345,000

Sec. 407. 2007 c 518 s 407 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--ADMINISTRATIVE TRANSFERS

(1) Recreational Vehicle Account--State Appropriation: For transfer to the Motor Vehicle Account--State ~~(\$3,005,000)~~ \$4,505,000

(2) License Plate Technology Account--State Appropriation: For the Multimodal Transportation Account--State \$4,500,000

(3) Motor Vehicle Account--State Appropriation: For transfer to the High-Occupancy Toll Lanes Operations--State Account \$3,000,000

(4) Motor Vehicle Account--State Appropriation: For transfer to the Puget Sound Capital Construction Account--State \$20,000,000

(5) Multimodal Transportation Account--State

Appropriation: For transfer to the Puget Sound Ferry Operations Account--State ~~(\$39,000,000)~~ \$66,000,000

(6) Advanced Right-of-Way Revolving Account--State Appropriation: For transfer to the Motor Vehicle Account--State \$30,000,000

(7) Waste Tire Removal Account--State Appropriation: For transfer to the Motor Vehicle Account--State . . \$5,600,000

(8) Motor Vehicle Account--State Appropriation: ~~(For transfer to the Transportation Partnership Account--State \$25,000,000)~~ For transfer to the Puget Sound Ferry Operations Account--State \$3,000,000

~~((+))~~ (9) Multimodal Transportation Account--State Appropriation: For transfer to the Transportation Infrastructure Account--State ~~(\$7,000,000)~~ \$6,600,000

~~((+))~~ (10) Highway Safety Account--State Appropriation: For transfer to the Multimodal Transportation Account--State \$9,500,000

(11) Urban Arterial Trust Account--State Appropriation: For transfer to the Small City Pavement and Sidewalk Account--State \$1,400,000

(12) Multimodal Transportation Account--Federal Appropriation: For transfer to the Transportation Infrastructure Account--Federal \$1,000,000

The transfers identified in this section are subject to the following conditions and limitations: ~~((+))~~ The amount transferred in subsection (3) of this section may be spent only on "highway purposes" as that term is construed in Article II, section 40 of the Washington state Constitution.

COMPENSATION

Sec. 501. 2007 c 518 s 501 (uncodified) is amended to read as follows:

COMPENSATION--NONREPRESENTED EMPLOYEES--INSURANCE BENEFITS. The appropriations for state agencies, are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$707 per eligible employee for fiscal year 2008. For fiscal year 2009 the monthly employer funding rate shall not exceed ~~(\$732)~~ \$575 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2008, through December 31, 2008, the subsidy shall be \$165.31. Starting January 1, 2009, the subsidy shall be \$184.26 per month.

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Sec. 502. 2007 c 518 s 502 (uncodified) is amended to read as follows:

COMPENSATION--REPRESENTED EMPLOYEES OUTSIDE SUPER COALITION--INSURANCE BENEFITS. The appropriations for state agencies, are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, for represented employees outside the super coalition under chapter 41.80 RCW, shall not exceed \$707 per eligible employee for fiscal year 2008. For fiscal year 2009 the monthly employer funding rate shall not exceed (~~(\$732)~~) \$575 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2008, through December 31, 2008, the subsidy shall be \$165.31. Starting January 1, 2009, the subsidy shall be \$184.26 per month.

Sec. 503. 2007 c 518 s 503 (uncodified) is amended to read as follows:

COMPENSATION--REPRESENTED EMPLOYEES--SUPER COALITION. Collective bargaining agreements negotiated as part of the super coalition under chapter 41.80 RCW include employer contributions to health insurance premiums at 88% of the cost. Funding rates at this level are currently \$707 per month for fiscal year 2008 and (~~(\$732)~~) \$575 per month for fiscal year 2009. The agreements also include a one-time payment of \$756 for each employee who is eligible for insurance for the month of June, 2007, and is covered by a 2007-2009 collective bargaining agreement pursuant to chapter 41.80 RCW, as well as continuation of the salary increases that were negotiated for the twelve-month period beginning July 1, 2006, and scheduled to terminate June 30, 2007.

MISCELLANEOUS

Sec. 601. RCW 46.68.110 and 2007 c 148 s 1 are each amended to read as follows:

Funds credited to the incorporated cities and towns of the state as set forth in RCW 46.68.090 shall be subject to deduction and distribution as follows:

(1) One and one-half percent of such sums distributed under RCW 46.68.090 shall be deducted monthly as such sums are credited and set aside for the use of the department of transportation for the supervision of work and expenditures of such incorporated cities and towns on the city and town streets thereof, including the supervision and administration of federal-aid programs for which the department of transportation has responsibility: PROVIDED, That any moneys so retained and not expended shall be credited in the succeeding biennium to the

incorporated cities and towns in proportion to deductions herein made;

(2) Thirty-three one-hundredths of one percent of such funds distributed under RCW 46.68.090 shall be deducted monthly, as such funds accrue, and set aside for the use of the department of transportation for the purpose of funding the cities' share of the costs of highway jurisdiction studies and other studies. Any funds so retained and not expended shall be credited in the succeeding biennium to the cities in proportion to the deductions made;

(3) One percent of such funds distributed under RCW 46.68.090 shall be deducted monthly, as such funds accrue, to be deposited in the small city pavement and sidewalk account, to implement the city hardship assistance program, as provided in RCW 47.26.164. However, any moneys so retained and not required to carry out the program under this subsection as of July 1st of each odd-numbered year thereafter, shall be retained in the account and used for maintenance, repair, and resurfacing of city and town streets for cities and towns with a population of less than five thousand.

(4) Except as provided in RCW 47.26.080, after making the deductions under subsections (1) through (3) of this section and RCW 35.76.050, the balance remaining to the credit of incorporated cities and towns shall be apportioned monthly as such funds accrue among the several cities and towns within the state ratably on the basis of the population last determined by the office of financial management.

NEW SECTION. Sec. 602. A new section is added to 2007 c 518 (uncodified) to read as follows:

Our ability to maintain and preserve the state's investment in transportation is acknowledged to be related to the replacement cost of the system, yet the state has no estimates of the entire system's cost or replacement value. A large portion of the state's highway system was developed prior to June 30, 1980, so it is important that the inventory and valuation include all of the state's highway system including the parts of the system constructed prior to June 30, 1980, that is not required by governmental accounting standards board's statement number 34. Consequently, the department of transportation, in conjunction with the office of financial management, must implement the governmental accounting standards board's statement number 34, including a complete inventory and valuation of the state's highway system's cost basis and replacement cost. During 2008, the cochairs of the joint transportation committee shall select legislators to work with the office of financial management and the department of transportation. The purpose of the effort is to enhance decision making that will result in strategic long-term investment decisions in transportation capital project management and appropriate levels of asset maintenance and preservation. The office of financial management will coordinate and manage the complete inventory and the valuation of the total state's highway system. The office of financial management must submit a final report to the legislative transportation committees on or before December 1, 2009.

NEW SECTION. Sec. 603. A new section is added to 2007 c 518 (uncodified) to read as follows:

In order to promote the receipt of federal enhancement funds, or other applicable federal or state grant funds, the following portions of highway are designated as part of the scenic and recreational highway system: Beginning at the Anacortes ferry landing, the Washington state ferries Anacortes/San Juan Islands route, which includes stops at Lopez, Shaw, Orcas, and San Juan Islands; and the roads on San Juan and Orcas Islands as described in San Juan Island county council resolution no. 7, adopted February 5, 2008.

Sec. 604. 2007 c 518 s 713 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION

Transportation Infrastructure Account--State
Appropriation ((\$7,000,000))
\$8,600,000

The appropriation in this section is subject to the following conditions and limitations: The Palouse River and Coulee City (PCC) rail line system is made up of the CW, P&L and PV Hooper rail lines. The amount provided in this section is provided solely for grants to any intergovernmental entity or local rail district to which ((operating rights for the PCC rail line system are assigned, provided that the funds are)) the department of transportation assigns the management and oversight responsibility for the business and economic development elements of existing operating leases on the PCC rail lines. Business and economic development elements include such items as levels of service and business operating plans, but shall not include the state's oversight of railroad regulatory compliance, rail infrastructure condition, or real property management issues. The PCC rail system must be managed in a self-sustaining manner and best efforts shall be used to ensure that it does not require state capital or operating subsidy beyond the level of state funding expended on it to date. The assignment of the stated responsibilities to an intergovernmental entity or rail district shall be on such terms and conditions as the department of transportation and the intergovernmental entity or rail district mutually agree. The grant funds may be used only to refurbish the rail lines. It is the intent of the legislature to make the funds appropriated in this section available as grants to an intergovernmental entity or local rail district for the purposes stated in this section at least until June 30, 2012, and to reappropriate as necessary any portion of the appropriation in this section that is not used by June 30, 2009.

NEW SECTION. Sec. 605. A new section is added to 2007 c 518 (uncodified) to read as follows:

SPECIAL APPROPRIATIONS TO THE GOVERNOR--INSURANCE ACCOUNTING SYSTEM

Aeronautics Account--State Appropriation \$2,000
State Patrol Highway Account--State Appropriation . \$338,000
Puget Sound Capital Construction Account--State
Appropriation \$24,000
Transportation Partnership Account--State Appropriation
. \$44,000
Highway Safety Account--State Appropriation \$120,000
Motor Vehicle Account--State Appropriation \$882,000
Puget Sound Ferry Operating Account--State Appropriation
. \$294,000
Urban Arterial Trust Account--State Appropriation . . . \$2,000
Transportation Improvement Account--State Appropriation \$2,000
Department of Licensing Services Account--State
Appropriation \$2,000
Multimodal Transportation Account--State Appropriation
. \$12,000
Tacoma Narrows Bridge Toll Account--State Appropriation
. \$10,000
Transportation 2003 Account (Nickel Account)--State
Appropriation \$120,000
TOTAL APPROPRIATION \$1,852,000

The appropriations in this section fund various state transportation agencies to support the state insurance accounting system. From the applicable accounts, the office of financial management shall reduce allotments to the respective agencies by an amount that conforms with the insurance accounting system special appropriations enacted in the 2008 supplemental omnibus appropriations act, Engrossed Substitute House Bill No. 2687 (chapter . . . , Laws of 2008). The allotment reductions

under this section shall be placed in reserve status and remain unexpended.

NEW SECTION. Sec. 606. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 607. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

(End of bill)

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On page 1, line 1 of the title, after "appropriations;" strike the remainder of the title and insert "amending RCW 46.68.110; amending 2007 c 518 ss 101, 102, 103, 104, 105, 106, 107, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 401, 402, 403, 404, 405, 406, 407, 501, 502, 503, and 713 (uncodified); adding new sections to 2007 c 518 (uncodified); making appropriations and authorizing capital improvements; and declaring an emergency."

And the bill do pass as recommended by the conference committee.

Signed by Senators Haugen, Marr and Swecker; Representatives Clibborn and Jarrett.

MOTION

Senator Haugen moved that the Report of the Conference Committee on Engrossed Substitute House Bill No. 2878 be adopted.

Senators Haugen, Swecker and Stevens spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Report of the Conference Committee on Engrossed Substitute House Bill No. 2878 be adopted.

The motion by Senator Haugen carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2878, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2878, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Berkeley, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Voting nay: Senators Benton, Hewitt, Honeyford and Pflug - 4

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2878, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

STATEMENT FOR THE JOURNAL

During the vote on final passage of the conference committee report on Engrossed Substitute House Bill No. 2878 yesterday (March 11, 2008), I was involved in preparations for a conference committee on another bill. When the bill came up for

final passage I inadvertently voted "aye" when I intended to vote "no". Today's Senate journal should reflect that my intention was to vote "no" on Engrossed Substitute House Bill No. 2878.

SENATOR JANEA HOLMQUIST, 13th Legislative District

PERSONAL PRIVILEGE

Senator Haugen: "Thank you Mr. President. Well, I just want to take an opportunity to say thank you to the most extraordinary staff who refuses to be here on the floor to be acknowledged. I can tell you one of the reasons the Senate works as well as it does in Transportation because we have most outstanding staff and the thing that I really think that we need to acknowledge is that, last year, the House had a new chair and new staff and actually our staff worked with them and one of the reasons we were so successful is because we began working together with the House. The House staff worked with our staff so we were working off the same numbers. Same numbers right from the start so at the end it was very easy to bring us together because we were all dealing with the same paper. But again, we are only as good as the staff we have and let me tell you we have one extraordinary, good Transportation staff and I want to say thank you to them."

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5378, with the following amendment: 5378-S AMH JUDI H5809.2

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 61.24.010 and 1998 c 295 s 2 are each amended to read as follows:

- (1) The trustee of a deed of trust under this chapter shall be:
 - (a) Any domestic corporation incorporated under Title 23B, 30, 31, 32, or 33 RCW of which at least one officer is a Washington resident; or
 - (b) Any title insurance company authorized to insure title to real property under the laws of this state, or its agents; or
 - (c) Any attorney who is an active member of the Washington state bar association at the time the attorney is named trustee; or
 - (d) Any professional corporation incorporated under chapter 18.100 RCW, any professional limited liability company formed under chapter 25.15 RCW, any general partnership, including limited liability partnerships, formed under chapter 25.04 RCW, all of whose shareholders, members, or partners, respectively, are either licensed attorneys or entities, provided all of the owners of those entities are licensed attorneys, or any domestic corporation wholly owned by any of the entities under this subsection (1)(d); or
 - (e) Any agency or instrumentality of the United States government; or
 - (f) Any national bank, savings bank, or savings and loan association chartered under the laws of the United States.
- (2) The trustee may resign at its own election or be replaced by the beneficiary. The trustee shall give prompt written notice of its resignation to the beneficiary. The resignation of the trustee shall become effective upon the recording of the notice of resignation in each county in which the deed of trust is recorded. If a trustee is not appointed in the deed of trust, or upon the resignation, incapacity, disability, absence, or death of the trustee, or the election of the beneficiary to replace the trustee, the beneficiary shall appoint a trustee or a successor trustee. Upon recording the appointment of a successor trustee in each county in which the deed of trust is recorded, the successor trustee shall be vested with all powers of an original trustee.

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(3) The trustee or successor trustee shall have no fiduciary duty or fiduciary obligation to the grantor or other persons having an interest in the property subject to the deed of trust.

(4) The trustee or successor trustee shall act impartially between the borrower, grantor, and beneficiary.

Sec. 2. RCW 61.24.030 and 1998 c 295 s 4 are each amended to read as follows:

It shall be requisite to a trustee's sale:

(1) That the deed of trust contains a power of sale;

(2) That the deed of trust contains a statement that the real property conveyed is not used principally for agricultural purposes; provided, if the statement is false on the date the deed of trust was granted or amended to include that statement, and false on the date of the trustee's sale, then the deed of trust must be foreclosed judicially. Real property is used for agricultural purposes if it is used in an operation that produces crops, livestock, or aquatic goods;

(3) That a default has occurred in the obligation secured or a covenant of the grantor, which by the terms of the deed of trust makes operative the power to sell;

(4) That no action commenced by the beneficiary of the deed of trust is now pending to seek satisfaction of an obligation secured by the deed of trust in any court by reason of the grantor's default on the obligation secured: PROVIDED, That (a) the seeking of the appointment of a receiver shall not constitute an action for purposes of this chapter; and (b) if a receiver is appointed, the grantor shall be entitled to any rents or profits derived from property subject to a homestead as defined in RCW 6.13.010. If the deed of trust was granted to secure a commercial loan, this subsection shall not apply to actions brought to enforce any other lien or security interest granted to secure the obligation secured by the deed of trust being foreclosed;

(5) That the deed of trust has been recorded in each county in which the land or some part thereof is situated;

(6) That prior to the date of the notice of trustee's sale and continuing thereafter through the date of the trustee's sale, the trustee must (have) maintain a street address in this state where personal service of process may be made, and the trustee must maintain a physical presence and have telephone service at such address; and

(7) That at least thirty days before notice of sale shall be recorded, transmitted or served, written notice of default shall be transmitted by the beneficiary or trustee to the borrower and grantor at their last known addresses by both first class and either registered or certified mail, return receipt requested, and the beneficiary or trustee shall cause to be posted in a conspicuous place on the premises, a copy of the notice, or personally served on the borrower and grantor. This notice shall contain the following information:

(a) A description of the property which is then subject to the deed of trust;

(b) Each county in which the deed of trust is recorded and the document number given to the deed of trust upon recording by each county auditor or recording officer;

(c) That the beneficiary has declared the borrower or grantor to be in default, and a concise statement of the default alleged;

(d) An itemized account of the amount or amounts in arrears if the default alleged is failure to make payments;

(e) An itemized account of all other specific charges, costs, or fees that the borrower, grantor, or any guarantor is or may be obliged to pay to reinstate the deed of trust before the recording of the notice of sale;

(f) The total of (d) and (e) of this subsection, designated clearly and conspicuously as the amount necessary to reinstate the note and deed of trust before the recording of the notice of sale;

(g) That failure to cure the alleged default within thirty days of the date of mailing of the notice, or if personally served, within thirty days of the date of personal service thereof, may lead to recordation, transmittal, and publication of a notice of sale, and that the property described in (a) of this subsection may be sold at public auction at a date no less than one hundred twenty days in the future;

(h) That the effect of the recordation, transmittal, and publication of a notice of sale will be to (i) increase the costs and fees and (ii) publicize the default and advertise the grantor's property for sale;

(i) That the effect of the sale of the grantor's property by the trustee will be to deprive the grantor of all their interest in the property described in (a) of this subsection; and

(j) That the borrower, grantor, and any guarantor has recourse to the courts pursuant to RCW 61.24.130 to contest the alleged default on any proper ground.

Sec. 3. RCW 61.24.040 and 1998 c 295 s 5 are each amended to read as follows:

A deed of trust foreclosed under this chapter shall be foreclosed as follows:

(1) At least ninety days before the sale, the trustee shall:

(a) Record a notice in the form described in RCW 61.24.040(1)(f) in the office of the auditor in each county in which the deed of trust is recorded;

(b) To the extent the trustee elects to foreclose its lien or interest, or the beneficiary elects to preserve its right to seek a deficiency judgment against a borrower or grantor under RCW 61.24.100(3)(a), and if their addresses are stated in a recorded instrument evidencing their interest, lien, or claim of lien, or an amendment thereto, or are otherwise known to the trustee, cause a copy of the notice of sale described in RCW 61.24.040(1)(f) to be transmitted by both first class and either certified or registered mail, return receipt requested, to the following persons or their legal representatives, if any, at such address:

(i) The borrower and grantor;

(ii) The beneficiary of any deed of trust or mortgagee of any mortgage, or any person who has a lien or claim of lien against the property, that was recorded subsequent to the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(iii) The vendee in any real estate contract, the lessee in any lease, or the holder of any conveyances of any interest or estate in any portion or all of the property described in such notice, if that contract, lease, or conveyance of such interest or estate, or a memorandum or other notice thereof, was recorded after the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(iv) The last holder of record of any other lien against or interest in the property that is subject to a subordination to the deed of trust being foreclosed that was recorded before the recordation of the notice of sale;

(v) The last holder of record of the lien of any judgment subordinate to the deed of trust being foreclosed; and

(vi) The occupants of property consisting solely of a single-family residence, or a condominium, cooperative, or other dwelling unit in a multiplex or other building containing fewer than five residential units, whether or not the occupant's rental agreement is recorded, which notice may be a single notice addressed to "occupants" for each unit known to the trustee or beneficiary;

(c) Cause a copy of the notice of sale described in RCW 61.24.040(1)(f) to be transmitted by both first class and either certified or registered mail, return receipt requested, to the plaintiff or the plaintiff's attorney of record, in any court action to foreclose a lien or other encumbrance on all or any part of the property, provided a court action is pending and a lis pendens in connection therewith is recorded in the office of the auditor of any county in which all or part of the property is located on the date the notice is recorded;

(d) Cause a copy of the notice of sale described in RCW 61.24.040(1)(f) to be transmitted by both first class and either certified or registered mail, return receipt requested, to any person who has recorded a request for notice in accordance with RCW 61.24.045, at the address specified in such person's most recently recorded request for notice;

(e) Cause a copy of the notice of sale described in RCW 61.24.040(1)(f) to be posted in a conspicuous place on the property, or in lieu of posting, cause a copy of said notice to be served upon any occupant of the property;

(f) The notice shall be in substantially the following form:

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NOTICE OF TRUSTEE'S SALE

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I.

NOTICE IS HEREBY GIVEN that the undersigned Trustee will on the day of,, at the hour of o'clock M. at [street address and location if inside a building] in the City of, State of Washington, sell at public auction to the highest and best bidder, payable at the time of sale, the following described real property, situated in the County(ies) of, State of Washington, to-wit:

[If any personal property is to be included in the trustee's sale, include a description that reasonably identifies such personal property] which is subject to that certain Deed of Trust dated,, recorded,, under Auditor's File No., records of County, Washington, from, as Grantor, to, as Trustee, to secure an obligation in favor of, as Beneficiary, the beneficial interest in which was assigned by, under an Assignment recorded under Auditor's File No. [Include recording information for all counties if the Deed of Trust is recorded in more than one county.]

II.

No action commenced by the Beneficiary of the Deed of Trust is now pending to seek satisfaction of the obligation in any Court by reason of the Borrower's or Grantor's default on the obligation secured by the Deed of Trust. [If there is another action pending to foreclose other security for all or part of the same debt, qualify the statement and identify the action.]

III.

The default(s) for which this foreclosure is made is/are as follows: [If default is for other than payment of money, set forth the particulars] Failure to pay when due the following amounts which are now in arrears:

IV.

The sum owing on the obligation secured by the Deed of Trust is: Principal \$, together with interest as provided in the note or other instrument secured from the day of,, and such other costs and fees as are due under the note or other instrument secured, and as are provided by statute.

V.

The above-described real property will be sold to satisfy the expense of sale and the obligation secured by the Deed of Trust as provided by statute. The sale will be made without warranty, express or implied, regarding title, possession, or encumbrances on the day of, The default(s) referred to in paragraph III must be cured by the day of, (11 days before the sale date), to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time on or before the day of, (11 days before the sale date), the default(s) as set forth in paragraph III is/are cured and the Trustee's fees and costs are paid. The sale may be terminated any time after the day of, (11 days before the sale date), and before the sale by the Borrower, Grantor, any Guarantor, or the holder of any recorded junior lien or encumbrance paying the entire principal and interest secured by the Deed of Trust, plus costs, fees, and advances, if any, made pursuant to the terms of the obligation and/or Deed of Trust, and curing all other defaults.

VI.

A written notice of default was transmitted by the Beneficiary or Trustee to the Borrower and Grantor at the following addresses: by both first class and certified mail on the day of,, proof of which is in the possession of the Trustee; and the Borrower and Grantor were personally served on the day of,, with said written notice of default or the written notice of default was posted in a conspicuous place on the real property described in paragraph I above, and the Trustee has possession of proof of such service or posting.

VII.

The Trustee whose name and address are set forth below will provide in writing to anyone requesting it, a statement of all costs and fees due at any time prior to the sale.

VIII.

The effect of the sale will be to deprive the Grantor and all those who hold by, through or under the Grantor of all their interest in the above-described property.

IX.

Anyone having any objection to the sale on any grounds whatsoever will be afforded an opportunity to be heard as to those objections if they bring a lawsuit to restrain the sale pursuant to RCW 61.24.130. Failure to bring such a lawsuit may result in a waiver of any proper grounds for invalidating the Trustee's sale. [Add Part X to this notice if applicable under RCW 61.24.040(9)]

., Trustee
. Address
.
} Phone

[Acknowledgment]

(2) In addition to providing the borrower and grantor the notice of sale described in RCW 61.24.040(1)(f), the trustee shall include with the copy of the notice which is mailed to the grantor, a statement to the grantor in substantially the following form:

NOTICE OF FORECLOSURE

Pursuant to the Revised Code of Washington, Chapter 61.24 RCW

The attached Notice of Trustee's Sale is a consequence of default(s) in the obligation to, the Beneficiary of your Deed of Trust and owner of the obligation secured thereby. Unless the default(s) is/are cured, your property will be sold at auction on the day of,

To cure the default(s), you must bring the payments current, cure any other defaults, and pay accrued late charges and other costs, advances, and attorneys' fees as set forth below by the day of, [11 days before the sale date]. To date, these arrears and costs are as follows:

Table with 2 columns: Currently due, Estimated amount. Rows include: that will be due, to reinstate, on,, (11 days before)

		the date set for sale)
Delinquent payments from , in the amount of \$ /mo.: \$ \$		
Late charges in the total amount of: \$ \$		Estimated Amounts
Attorneys' fees: \$ \$		
Trustee's fee: \$ \$		
Trustee's expenses: (Itemization)		
Title report \$ \$		
Recording fees \$ \$		
Service/Posting of Notices \$ \$		
Postage/Copying expense \$ \$		
Publication \$ \$		
Telephone charges \$ \$		
Inspection fees \$ \$		
. \$ \$		
. \$ \$		
TOTALS \$ \$		

set forth or estimated above and by curing any other defaults described above. Of course, as time passes other payments may become due, and any further payments coming due and any additional late charges must be added to your reinstating payment. Any new defaults not involving payment of money that occur after the date of this notice must also be cured in order to effect reinstatement. In addition, because some of the charges can only be estimated at this time, and because the amount necessary to reinstate or to pay off the entire indebtedness may include presently unknown expenditures required to preserve the property or to comply with state or local law, it will be necessary for you to contact the Trustee before the time you tender reinstatement or the payoff amount so that you may be advised of the exact amount you will be required to pay. Tender of payment or performance must be made to: , whose address is , telephone () AFTER THE DAY OF , YOU MAY NOT REINSTATE YOUR DEED OF TRUST BY PAYING THE BACK PAYMENTS AND COSTS AND FEES AND CURING THE OTHER DEFAULTS AS OUTLINED ABOVE. The Trustee will respond to any written request for current payoff or reinstatement amounts within ten days of receipt of your written request. In such a case, you will only be able to stop the sale by paying, before the sale, the total principal balance (\$) plus accrued interest, costs and advances, if any, made pursuant to the terms of the documents and by curing the other defaults as outlined above.

You may contest this default by initiating court action in the Superior Court of the county in which the sale is to be held. In such action, you may raise any legitimate defenses you have to this default. A copy of your Deed of Trust and documents evidencing the obligation secured thereby are enclosed. You may wish to consult a lawyer. Legal action on your part may prevent or restrain the sale, but only if you persuade the court of the merits of your defense.

The court may grant a restraining order or injunction to restrain a trustee's sale pursuant to RCW 61.24.130 upon five days notice to the trustee of the time when, place where, and the judge before whom the application for the restraining order or injunction is to be made. This notice shall include copies of all pleadings and related documents to be given to the judge. Notice and other process may be served on the trustee at:

NAME:
ADDRESS:
TELEPHONE NUMBER:

To pay off the entire obligation secured by your Deed of Trust as of the day of you must pay a total of \$ in principal, \$ in interest, plus other costs and advances estimated to date in the amount of \$ From and after the date of this notice you must submit a written request to the Trustee to obtain the total amount to pay off the entire obligation secured by your Deed of Trust as of the payoff date.

As to the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust, you must cure each such default. Listed below are the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust. Opposite each such listed default is a brief description of the action necessary to cure the default and a description of the documentation necessary to show that the default has been cured.

Default	Description of Action Required to Cure and Documentation Necessary to Show Cure
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You may reinstate your Deed of Trust and the obligation secured thereby at any time up to and including the day of [1 days before the sale date], by paying the amount

If you do not reinstate the secured obligation and your Deed of Trust in the manner set forth above, or if you do not succeed in restraining the sale by court action, your property will be sold. The effect of such sale will be to deprive you and all those who hold by, through or under you of all interest in the property;

(3) In addition, the trustee shall cause a copy of the notice of sale described in RCW 61.24.040(1)(f) (excluding the acknowledgment) to be published in a legal newspaper in each county in which the property or any part thereof is situated, once on or between the thirty-fifth and twenty-eighth day before the date of sale, and once on or between the fourteenth and seventh day before the date of sale;

(4) On the date and at the time designated in the notice of sale, the trustee or its authorized agent shall sell the property at public auction to the highest bidder. The trustee may sell the property in gross or in parcels as the trustee shall deem most advantageous;

(5) The place of sale shall be at any designated public place within the county where the property is located and if the property is in more than one county, the sale may be in any of the counties where the property is located. The sale shall be on Friday, or if Friday is a legal holiday on the following Monday, and during the hours set by statute for the conduct of sales of real estate at execution;

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(6) The trustee has no obligation to, but may, for any cause the trustee deems advantageous, continue the sale for a period or periods not exceeding a total of one hundred twenty days by (a) a public proclamation at the time and place fixed for sale in the notice of sale and if the continuance is beyond the date of sale, by giving notice of the new time and place of the sale by both first class and either certified or registered mail, return receipt requested, to the persons specified in RCW 61.24.040(1)(b) (i) and (ii) to be deposited in the mail (i) not less than four days before the new date fixed for the sale if the sale is continued for up to seven days; or (ii) not more than three days after the date of the continuance by oral proclamation if the sale is continued for more than seven days, or, alternatively, (b) by giving notice of the time and place of the postponed sale in the manner and to the persons specified in RCW 61.24.040(1) (b), (c), (d), and (e) and publishing a copy of such notice once in the newspaper(s) described in RCW 61.24.040(3), more than seven days before the date fixed for sale in the notice of sale. No other notice of the postponed sale need be given;

(7) The purchaser shall forthwith pay the price bid and on payment the trustee shall execute to the purchaser its deed; the deed shall recite the facts showing that the sale was conducted in compliance with all of the requirements of this chapter and of the deed of trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value, except that these recitals shall not affect the lien or interest of any person entitled to notice under RCW 61.24.040(1), if the trustee fails to give the required notice to such person. In such case, the lien or interest of such omitted person shall not be affected by the sale and such omitted person shall be treated as if such person was the holder of the same lien or interest and was omitted as a party defendant in a judicial foreclosure proceeding;

(8) The sale as authorized under this chapter shall not take place less than one hundred ninety days from the date of default in any of the obligations secured.

(9) If the trustee elects to foreclose the interest of any occupant or tenant of property comprised solely of a single-family residence, or a condominium, cooperative, or other dwelling unit in a multiplex or other building containing fewer than five residential units, the following notice shall be included as Part X of the Notice of Trustee's Sale:

X.

NOTICE TO OCCUPANTS OR TENANTS

The purchaser at the trustee's sale is entitled to possession of the property on the 20th day following the sale, as against the grantor under the deed of trust (the owner) and anyone having an interest junior to the deed of trust, including occupants and tenants. After the 20th day following the sale the purchaser has the right to evict occupants and tenants by summary proceedings under the unlawful detainer act, chapter 59.12 RCW.

(10) Only one copy of all notices required by this chapter need be given to a person who is both the borrower and the grantor. All notices required by this chapter that are given to a general partnership are deemed given to each of its general partners, unless otherwise agreed by the parties.

Sec. 4. RCW 61.24.045 and 1985 c 193 s 1 are each amended to read as follows:

Any person desiring a copy of any notice of sale described in RCW 61.24.040(1)(f) under any deed of trust, other than a person entitled to receive such a notice under RCW 61.24.040(1) (b) or (c), must, after the recordation of such deed of trust and before the recordation of the notice of sale, cause to be filed for record, in the office of the auditor of any county in which the deed of trust is recorded, a duly acknowledged request for a copy of any notice of sale. The request shall be signed and acknowledged by the person to be notified or such person's agent, attorney, or representative; shall set forth the name, mailing address, and telephone number, if any, of the person or persons to be notified; shall identify the deed of trust by stating the names of the parties thereto, the date the deed of trust was recorded, the legal description of the property encumbered by

the deed of trust, and the auditor's file number under which the deed of trust is recorded; and shall be in substantially the following form:

REQUEST FOR NOTICE

Request is hereby made that a copy of any notice of sale described in RCW 61.24.040(1)(f) under that certain Deed of Trust dated, ((+9)) 20., recorded on, ((+9)) 20., under auditor's file No., records of County, Washington, from, as Grantor, to, as Trustee, to secure an obligation in favor of, as Beneficiary, and affecting the following described real property:

(Legal Description)
be sent by both first class and either registered or certified mail, return receipt requested, to at

Dated this day of, ((+9)) 20.

Signature

(Acknowledgment)

A request for notice under this section shall not affect title to, or be deemed notice to any person that any person has any right, title, interest in, lien or charge upon, the property described in the request for notice.

Sec. 5. RCW 61.24.130 and 1998 c 295 s 14 are each amended to read as follows:

(1) Nothing contained in this chapter shall prejudice the right of the borrower, grantor, any guarantor, or any person who has an interest in, lien, or claim of lien against the property or some part thereof, to restrain, on any proper legal or equitable ground, a trustee's sale. The court shall require as a condition of granting the restraining order or injunction that the applicant pay to the clerk of the court the sums that would be due on the obligation secured by the deed of trust if the deed of trust was not being foreclosed:

(a) In the case of default in making the periodic payment of principal, interest, and reserves, such sums shall be the periodic payment of principal, interest, and reserves paid to the clerk of the court every thirty days.

(b) In the case of default in making payment of an obligation then fully payable by its terms, such sums shall be the amount of interest accruing monthly on said obligation at the nondefault rate, paid to the clerk of the court every thirty days.

In the case of default in performance of any nonmonetary obligation secured by the deed of trust, the court shall impose such conditions as it deems just.

In addition, the court may condition granting the restraining order or injunction upon the giving of security by the applicant, in such form and amount as the court deems proper, for the payment of such costs and damages, including attorneys' fees, as may be later found by the court to have been incurred or suffered by any party by reason of the restraining order or injunction. The court may consider, upon proper showing, the grantor's equity in the property in determining the amount of said security.

(2) No court may grant a restraining order or injunction to restrain a trustee's sale unless the person seeking the restraint gives five days notice to the trustee of the time when, place where, and the judge before whom the application for the restraining order or injunction is to be made. This notice shall include copies of all pleadings and related documents to be given to the judge. No judge may act upon such application unless it is accompanied by proof, evidenced by return of a sheriff, the sheriff's deputy, or by any person eighteen years of age or over who is competent to be a witness, that the notice has been served on the trustee.

(3) If the restraining order or injunction is dissolved after the date of the trustee's sale set forth in the notice as provided in RCW 61.24.040(1)(f), the court granting such restraining order or injunction, or before whom the order or injunction is returnable, shall, at the request of the trustee, set a new sale date

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which shall be not less than forty-five days from the date of the order dissolving the restraining order. The trustee shall:

(a) Comply with the requirements of RCW 61.24.040(1) (a) through (f) at least thirty days before the new sale date; and

(b) Cause a copy of the notice of trustee's sale as provided in RCW 61.24.040(1)(f) to be published in a legal newspaper in each county in which the property or any part thereof is situated once between the thirty-fifth and twenty-eighth day before the sale and once between the fourteenth and seventh day before the sale.

(4) If a trustee's sale has been stayed as a result of the filing of a petition in federal bankruptcy court and an order is entered in federal bankruptcy court granting relief from the stay or closing or dismissing the case, or discharging the debtor with the effect of removing the stay, the trustee may set a new sale date which shall not be less than forty-five days after the date of the bankruptcy court's order. The trustee shall:

(a) Comply with the requirements of RCW 61.24.040(1) (a) through (f) at least thirty days before the new sale date; and

(b) Cause a copy of the notice of trustee's sale as provided in RCW 61.24.040(1)(f) to be published in a legal newspaper in each county in which the property or any part thereof is situated, once between the thirty-fifth and twenty-eighth day before the sale and once between the fourteenth and seventh day before the sale.

(5) Subsections (3) and (4) of this section are permissive only and do not prohibit the trustee from proceeding with a trustee's sale following termination of any injunction or stay on any date to which such sale has been properly continued in accordance with RCW 61.24.040(6).

(6) The issuance of a restraining order or injunction shall not prohibit the trustee from continuing the sale as provided in RCW 61.24.040(6).

Sec. 6. RCW 61.24.135 and 1998 c 295 s 15 are each amended to read as follows:

It is an unfair or deceptive act or practice under the consumer protection act, chapter 19.86 RCW, for any person, acting alone or in concert with others, to offer, or offer to accept or accept from another, any consideration of any type not to bid, or to reduce a bid, at a sale of property conducted pursuant to a power of sale in a deed of trust. The trustee may decline to complete a sale or deliver the trustee's deed and refund the purchase price, if it appears that the bidding has been collusive or defective, or that the sale might have been void. However, it is not an unfair or deceptive act or practice for any person, including a trustee, to state that a property subject to a recorded notice of trustee's sale or subject to a sale conducted pursuant to this chapter is being sold in an "as-is" condition, or for the beneficiary to arrange to provide financing for a particular bidder or to reach any good faith agreement with the borrower, grantor, any guarantor, or any junior lienholder."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5378.

Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5378.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5378 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5378, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5378, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 3; Excused, 0.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Absent: Senators Benton, Holmquist and Kohl-Welles - 3
SUBSTITUTE SENATE BILL NO. 5378, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed Substitute House Bill No. 2878 was immediately transmitted to the House of Representatives.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6534, with the following amendment: 6534 AMH QUAL MCLA 374

On page 1, after line 17, insert the following:

"**Sec. 2.** RCW 28A.305.215 and 2007 c 396 s 1 are each amended to read as follows:

(1) The activities in this section revise and strengthen the state learning standards that implement the goals of RCW 28A.150.210, known as the essential academic learning requirements, and improve alignment of school district curriculum to the standards.

(2) The state board of education shall be assisted in its work under subsections (3), (4), and (5) of this section by: (a) An expert national consultant in each of mathematics and science retained by the state board; and (b) the mathematics and science advisory panels created under RCW 28A.305.219, as appropriate, which shall provide review and formal comment on proposed recommendations to the superintendent of public instruction and the state board of education on new revised standards and curricula.

(3) By September 30, 2007, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in mathematics. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

(b) Study of:

(i) Standards used in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment;

(ii) College readiness standards;

(iii) The national council of teachers of mathematics focal points and the national assessment of educational progress content frameworks; and

(iv) Standards used by three to five other states, including California, and the nation of Singapore; and

(c) Consideration of information presented during public

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comment periods.

(4)(a) By ((January 31)) February 29, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for mathematics and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4). ((The superintendent shall adopt the revised essential academic learning requirements and grade level expectations unless otherwise directed by the legislature during the 2008 legislative session.))

(b) The state board of education shall direct an expert national consultant in mathematics to:

(i) Analyze the February 2008 version of the revised standards, including a comparison to exemplar standards previously reviewed under this section;

(ii) Recommend specific language and content changes needed to finalize the revised standards; and

(iii) Present findings and recommendations in a draft report to the state board of education.

(c) By May 15, 2008, the state board of education shall review the consultant's draft report, consult the mathematics advisory panel, hold a public hearing to receive comment, and direct any subsequent modifications to the consultant's report. After the modifications are made, the state board of education shall forward the final report and recommendations to the superintendent of public instruction for implementation.

(d) By July 1, 2008, the superintendent of public instruction shall revise the mathematics standards to conform precisely to and incorporate each of the recommendations of the state board of education under subsection (4)(c) of this section and submit the revisions to the state board of education.

(e) By July 31, 2008, the state board of education shall either approve adoption by the superintendent of public instruction of the final revised standards as the essential academic learning requirements and grade level expectations for mathematics, or develop a plan for ensuring that the recommendations under subsection (4)(c) are implemented so that final revised mathematics standards can be adopted by September 25, 2008.

(5) By June 30, 2008, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in science. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

(b) Study of standards used by three to five other states and in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment; and

(c) Consideration of information presented during public comment periods.

(6) By December 1, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for science and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4). The superintendent shall adopt the revised essential academic learning requirements and grade level expectations unless otherwise directed by the legislature during the 2009 legislative session.

(7)(a) By May 15, 2008, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic mathematics curricula each for elementary, middle, and high school grade spans.

(b) By June 30, 2008, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended mathematics curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(c) By May 15, 2009, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic science curricula each for elementary, middle, and high school grade spans.

(d) By June 30, 2009, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended science curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(e) In selecting the recommended curricula under this subsection (7), the superintendent of public instruction shall provide information to the mathematics and science advisory panels created under RCW 28A.305.219, as appropriate, and seek the advice of the appropriate panel regarding the curricula that shall be included in the recommendations.

(f) The recommended curricula under this subsection (7) shall align with the revised essential academic learning requirements and grade level expectations. In addition to the recommended basic curricula, appropriate diagnostic and supplemental materials shall be identified as necessary to support each curricula.

(g) Subject to funds appropriated for this purpose and availability of the curricula, at least one of the curricula in each grade span and in each of mathematics and science shall be available to schools and parents online at no cost to the school or parent.

(8) By December 1, 2007, the state board of education shall revise the high school graduation requirements under RCW 28A.230.090 to include a minimum of three credits of mathematics, one of which may be a career and technical course equivalent in mathematics, and prescribe the mathematics content in the three required credits.

(9) Nothing in this section requires a school district to use one of the recommended curricula under subsection (7) of this section. However, the statewide accountability plan adopted by the state board of education under RCW 28A.305.130 shall recommend conditions under which school districts should be required to use one of the recommended curricula. The plan shall also describe the conditions for exception to the curriculum requirement, such as the use of integrated academic and career and technical education curriculum. Required use of the recommended curricula as an intervention strategy must be authorized by the legislature as required by RCW 28A.305.130(4)(e) before implementation.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Senate Bill No. 6534.

MOTION

On motion of Senator Brandland, Senators Holmquist and Kohl-Welles were excused.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Senate Bill No. 6534.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6534 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6534, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6534, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridmore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Absent: Senator Murray - 1

Excused: Senators Holmquist and Kohl-Welles - 2

SENATE BILL NO. 6534, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6573, with the following amendment: 6573-S.E AMH ENGR H6013.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that local governments need additional revenues to provide public safety resources in order to protect the citizens of Washington from fire and crime. The legislature finds that the current benefit formula and contributions for the law enforcement officers' and firefighters' plan 2 are inadequate to modify that formula in recognition of the shorter working careers for firefighters and police officers. The legislature recognizes that although some officers and firefighters are able to work comfortably beyond twenty-five years, the combat nature of fire suppression and law enforcement generally require earlier retirement ages. In recognition of the physical demands of the professions and the inherent risks faced by law enforcement officers and firefighters, eligibility for retirement in the law enforcement officers' and firefighters' plan 2 system has been set at age fifty-three. However, the benefit formula is designed for careers of thirty-five to forty years, making retirement at age fifty-three an unrealistic option for many.

Therefore, the legislature declares that it is the purpose of this act to provide local government public safety employers and the law enforcement officers' and firefighters' plan 2 pension plan with additional shared revenues when general state revenues exceed by more than five percent the previous fiscal biennium's revenue.

NEW SECTION. Sec. 2. A new section is added to chapter 41.26 RCW to read as follows:

The local public safety enhancement account is created in the state treasury. Moneys in the account may be spent only after appropriation. All receipts from section 4 of this act must be deposited into the account. Expenditures from the account may be used as follows:

(1) Following appropriation, fifty percent of the money in the account shall be transferred to the law enforcement officers' and firefighters' retirement system benefits improvement account established in section 3 of this act.

(2) Following appropriation, the balance shall be distributed by the state treasurer to all jurisdictions with law enforcement officers' and firefighters' plan 2 members. Each year, the department of retirement systems will determine each jurisdiction's proportionate share of funds based on the number of plan 2 members each jurisdiction has on June 1st of the prior year divided by the total number of plan 2 members in the system. The department of retirement systems shall provide the distribution allocation to the state treasurer. Distributions by the state treasurer shall be made annually each January 1st with one-half of the appropriation being distributed in the first year of the appropriation and any remainder the following year. If an appropriation is made for a single fiscal year, the entire appropriation shall be distributed the following January 1st. Jurisdictions that contract with other eligible jurisdictions for law enforcement services or fire protection services must agree on the distribution of funds between the contracting parties and must inform the department of retirement systems as to how the distribution is to be made. Distributions will continue to be made under the terms of the agreement until the department of retirement systems is notified by the eligible jurisdiction of any agreement revisions. If there is no agreement within six months of the distribution date, the moneys lapse to the state treasury. Moneys distributed from the balance of the public safety enhancement account may be used for the following purposes: (a) Criminal justice, including those where an ancillary benefit to the civil justice occurs, and includes domestic violence programs; (b) information and assistance to parents and families dealing with at-risk or runaway youth; or (c) public safety. Money distributed from the account shall not supplant existing funds used for these purposes. For purposes of this subsection, "existing funds" means the actual operating expenditures for the calendar year prior to the first distribution from the account. Actual operating expenditures excludes lost federal funds, lost or expired state grants or loans, extraordinary events not likely to reoccur, change in contract provisions beyond the control of the jurisdiction receiving the services, and major capital expenditures.

NEW SECTION. Sec. 3. A new section is added to chapter 41.26 RCW to read as follows:

(1) The local law enforcement officers' and firefighters' retirement system benefits improvement account (benefits account) is created within the law enforcement officers' and firefighters' retirement system plan 2 fund. All receipts from section 2(1) of this act must be deposited into the account.

(2) The funds in the benefits account shall not be included by the actuary retained by the board in the calculation of the market value of assets of the law enforcement officers' and firefighters' retirement system plan 2 fund until the board directs the actuary retained by the board in writing to do so for purposes of financing benefits enacted by the legislature. The board shall, in consultation with the state investment board and within ninety days of the transfer of funds into the benefits account, provide the actuary retained by the board, in writing, the market value of the amount directed from the benefits account for inclusion in the calculation of the market value of assets of the law enforcement officers' and firefighters' retirement system plan 2 fund. The market value of the amount directed from the benefits account shall be an amount determined by the state actuary to sufficiently offset the unfunded actuarial accrued liabilities of benefit improvements financed from this account. The market value of the amount directed from the benefits account shall be determined as of the date of the direction from the board to include this amount for purposes of financing benefits enacted by the legislature.

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(3) The law enforcement officers' and firefighters' plan 2 retirement board shall administer the fund in an actuarially sound manner.

(4) The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the benefits account. The state investment board is authorized to adopt investment policies for the money in the benefits account. All investment and operating costs associated with the investment of money within the benefits account shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the benefits account.

(5) All investments made by the state investment board shall be made with the exercise of that degree of judgment and care pursuant to RCW 43.33A.140 and the investment policy established by the state investment board.

(6) When appropriate for investment purposes, the state investment board may commingle money in the fund with other funds.

(7) The authority to establish all policies relating to the benefits account, other than the investment policies set forth in this section, resides with the law enforcement officers' and firefighters' plan 2 retirement board. Other than investments by and expenses of the state investment board, disbursements from this fund may be made only on the authorization of the law enforcement officers' and firefighters' plan 2 retirement board for purposes of funding the member, employer, and state cost of financing benefits enacted by the legislature.

(8) The state investment board shall routinely consult with and communicate with the law enforcement officers' and firefighters' plan 2 retirement board on the investment policy, earnings of the trust, and related needs of the benefits account.

(9) Funds in the benefits account cannot be used to finance future benefit improvements if the state actuary determines that the actuarial present value of fully projected benefits for current and future members for all benefits being financed from this account exceeds the actuarial present value of the revenue provided under section 4 of this act and the accrued earnings of the benefits account. When making the determination under this subsection, the state actuary shall select assumptions and methods to reduce the risk that the actual revenue received is less than the assumed revenue.

NEW SECTION. Sec. 4. A new section is added to chapter 41.26 RCW to read as follows:

(1) By September 30, 2011, if the prior fiscal biennium's general state revenues exceed the previous fiscal biennium's revenues by more than five percent, subject to appropriation by the legislature, the state treasurer shall transfer five million dollars to the local public safety enhancement account.

(2) By September 30, 2013, if the prior fiscal biennium's general state revenues exceed the previous fiscal biennium's revenues by more than five percent, subject to appropriation by the legislature, the state treasurer shall transfer ten million dollars to the local public safety enhancement account.

(3) By September 30, 2015, if the prior fiscal biennium's general state revenues exceed the previous fiscal biennium's revenues by more than five percent, subject to appropriation by the legislature, the state treasurer shall transfer twenty million dollars to the local public safety enhancement account.

(4) By September 30, 2017, and by September 30 of each odd-numbered year thereafter, if the prior fiscal biennium's general state revenues exceed the previous fiscal biennium's revenues by more than five percent, subject to appropriation by the legislature, the state treasurer shall transfer the lesser of one-third of the increase, or fifty million dollars, to the local public safety enhancement account.

Sec. 5. RCW 41.26.720 and 2003 c 2 s 5 are each amended to read as follows:

(1) The board of trustees have the following powers and duties and shall:

(a) Adopt actuarial tables, assumptions, and cost methodologies in consultation with an enrolled actuary retained by the board. The state actuary shall provide assistance when the board requests. The actuary retained by the board shall

utilize the aggregate actuarial cost method, or other recognized actuarial cost method based on a level percentage of payroll, as that term is employed by the American academy of actuaries. The actuary retained by the board shall adjust the actuarial cost method to recognize the actuarial present value of future revenue that will be included in the calculation of the market value of assets pursuant to section 3(2) of this act, using the methods and assumptions employed by the state actuary in section 3(9) of this act. In determining the reasonableness of actuarial valuations, assumptions, and cost methodologies, the actuary retained by the board shall provide a copy of all such calculations to the state actuary. If the two actuaries concur on the calculations, contributions shall be made as set forth in the report of the board's actuary. If the two actuaries cannot agree, they shall appoint a third, independent, enrolled actuary who shall review the calculations of the actuary retained by the board and the state actuary. Thereafter, contributions shall be based on the methodology most closely following that of the third actuary;

(b)(i) Provide for the design and implementation of increased benefits for members and beneficiaries of the plan, subject to the contribution limitations under RCW 41.26.725. An increased benefit may not be approved by the board until an actuarial cost of the benefit has been determined by the actuary and contribution rates adjusted as may be required to maintain the plan on a sound actuarial basis. Increased benefits as approved by the board shall be presented to the legislature on January 1st of each year. The increased benefits as approved by the board shall become effective within ninety days unless a bill is enacted in the next ensuing session of the legislature, by majority vote of each house of the legislature, repealing the action of the board;

(ii) As an alternative to the procedure in (b)(i) of this subsection, recommend to the legislature changes in the benefits for members and beneficiaries, without regard to the cost limitations in RCW 41.26.725(3). Benefits adopted in this manner shall have the same contractual protections as the minimum benefits in the plan. The recommendations of the board shall be presented to the legislature on January 1st of each year. These measures shall take precedence over all other measures in the legislature, except appropriations bills, and shall be either enacted or rejected without change or amendment by the legislature before the end of such regular session;

(c) Retain professional and technical advisors necessary for the accomplishment of its duties. The cost of these services may be withdrawn from the trust;

(d) Consult with the department for the purpose of improving benefit administration and member services;

(e) Provide an annual report to the governor and the legislature setting forth the actuarial funding status of the plan and making recommendations for improvements in those aspects of retirement administration directed by the legislature or administered by the department;

(f) Establish uniform administrative rules and operating policies in the manner prescribed by law;

(g) Engage administrative staff and acquire office space independent of, or in conjunction with, the department. The department shall provide funding from its budget for these purposes;

(h) ~~((The board shall publish (Publish)) Publish~~ on an annual basis a schedule of increased benefits together with a summary of the minimum benefits as established by the legislature which shall constitute the official plan document; and

(i) Be the fiduciary of the plan and discharge the board's duties solely in the interest of the members and beneficiaries of the plan.

(2) Meetings of the board of trustees shall be conducted as follows:

(a) All board meetings are open to the public, preceded by timely public notice;

(b) All actions of the board shall be taken in open public session, except for those matters which may be considered in executive session as provided by law;

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(c) The board shall retain minutes of each meeting setting forth the names of those board members present and absent, and their voting record on any voted issue; and

(d) The board may establish, with the assistance of the appropriate office of state government, an internet web site providing for interactive communication with state government, members and beneficiaries of the plan, and the public.

(3) A quorum of the board is six board members. All board actions require six concurring votes.

(4) The decisions of the board shall be made in good faith and are final, binding, and conclusive on all parties. The decisions of the board shall be subject to judicial review as provided by law.

(5) A law enforcement officers' and firefighters' retirement system plan 2 expense fund is established for the purpose of defraying the expenses of the board. The board shall cause an annual budget to be prepared consistent with the requirements of chapter 43.88 RCW and shall draw the funding for the budget from the investment income of the trust. Board members shall be reimbursed for travel and education expenses as provided in RCW 43.03.050 and 43.03.060. The board shall make an annual report to the governor, legislature, and state auditor setting forth a summary of the costs and expenditures of the plan for the preceding year. The board shall also retain the services of an independent, certified public accountant who shall annually audit the expenses of the fund and whose report shall be included in the board's annual report."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6573.

Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6573.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6573 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6573, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6573, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Voting nay: Senators Honeyford and Spanel - 2

Excused: Senators Holmquist and Kohl-Welles - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 6573, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6950, with the following amendments: 6950 AMH VAND MITC 264 & 6950 AMD....H5993.1

On page 41, after line 25, insert the following:

"NEW SECTION. **Sec. 509.** A new section is added to chapter 84.33 RCW to read as follows:

(1) A harvester may elect to calculate the tax imposed by this chapter in the manner provided in RCW 84.33.074 for an amount of timber that does not exceed five million board feet, if all of the following conditions are met:

(a) The timber is harvested after December 31, 2007, and before January 1, 2010;

(b) The timber is harvested on property within a county designated by the president of the United States as a disaster area as a result of severe storms and flooding that occurred in December 2007 and the county qualifies for individual assistance from the federal emergency management agency; and

(c) For any tax liability under this chapter incurred by the harvester in calendar years 2005, 2006, and 2007, the tax liability resulted from the felling, cutting, or taking of timber in an amount not exceeding two million board feet in each of those years.

(2) This section expires January 1, 2010."

Remember the remaining sections consecutively, fix internal cross references accordingly, and correct the title

On page 45, line 23, after "permit" insert "except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2)"

On page 46, line 2, after "permit" insert "except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2)"

On page 47, line 28, after "permit" insert "except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2)"

On page 48, line 8, after "permit" insert "except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2)"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Fraser moved that the Senate concur in the House amendment(s) to Senate Bill No. 6950.

Senator Fraser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fraser that the Senate concur in the House amendment(s) to Senate Bill No. 6950.

The motion by Senator Fraser carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6950 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6950, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6950, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove,

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Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Holmquist - 1

SENATE BILL NO. 6950, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 8, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 2598 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate recede from its position in the Senate House amendment(s) to Second Substitute House Bill No. 2598.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 2598.

The motion by Senator McAuliffe carried and the Senate receded from its position in the Senate amendment(s) to Second Substitute House Bill No. 2598 by voice vote.

MOTION

On motion of Senator McAuliffe, the rules were suspended and Second Substitute House Bill No. 2598 was returned to second reading for the purposes of amendment.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2598, by House Committee on Appropriations Subcommittee on Education (originally sponsored by Representatives Sullivan, Ormsby, Haigh, Schual-Berke, Green and Simpson)

Directing the office of the superintendent of public instruction to issue a request for proposals for development of an online mathematics curriculum. Revised for 2nd Substitute: Regarding an online mathematics curriculum.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following striking amendment by Senators McAuliffe, Tom and King be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. Within thirty days after the adoption of final revised mathematics standards as directed under RCW 28A.305.215, the office of the superintendent of public instruction and the state board of education shall work together to develop a request for proposals for private vendors

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or nonprofit organizations to adapt an existing mathematics curriculum to be aligned with Washington's essential academic learning requirements and grade level expectations and make the curriculum available online at no cost to school districts. At a minimum, the proposed curriculum shall cover course content in grades kindergarten through twelve and the state's college readiness standards. Proposals shall address cost and timelines for adaptation and implementation of the curriculum. The office of the superintendent of public instruction shall review the responses to the request for proposals, including an analysis of the qualifications of the respondents, and report the results of the request for proposals under this section to the governor and the education and fiscal committees of the legislature by December 1, 2008.

Sec. 2. RCW 28A.305.215 and 2007 c 396 s 1 are each amended to read as follows:

(1) The activities in this section revise and strengthen the state learning standards that implement the goals of RCW 28A.150.210, known as the essential academic learning requirements, and improve alignment of school district curriculum to the standards.

(2) The state board of education shall be assisted in its work under subsections (3) and (5) of this section by: (a) An expert national consultant in each of mathematics and science retained by the state board; and (b) the mathematics and science advisory panels created under RCW 28A.305.219, as appropriate, which shall provide review and formal comment on proposed recommendations to the superintendent of public instruction and the state board of education on new revised standards and curricula.

(3) By September 30, 2007, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in mathematics. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

(b) Study of:

(i) Standards used in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment;

(ii) College readiness standards;

(iii) The national council of teachers of mathematics focal points and the national assessment of educational progress content frameworks; and

(iv) Standards used by three to five other states, including California, and the nation of Singapore; and

(c) Consideration of information presented during public comment periods.

(4) By January 31, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for mathematics and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4). The superintendent shall adopt the revised essential academic learning requirements and grade level expectations unless otherwise directed by the legislature during the 2008 legislative session.

(5) By June 30, 2008, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in science. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

(b) Study of standards used by three to five other states and in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment; and

(c) Consideration of information presented during public comment periods.

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(6) By December 1, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for science and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4). The superintendent shall adopt the revised essential academic learning requirements and grade level expectations unless otherwise directed by the legislature during the 2009 legislative session.

(7)(a) ~~((By May 15, 2008))~~ Within six months after the standards under subsection (4) of this section are adopted, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic mathematics curricula each for elementary, middle, and high school grade spans.

(b) ~~((By June 30, 2008))~~ Within two months after the presentation of the recommended curricula, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended mathematics curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(c) By May 15, 2009, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic science curricula each for elementary, middle, and high school grade spans.

(d) By June 30, 2009, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended science curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(e) In selecting the recommended curricula under this subsection (7), the superintendent of public instruction shall provide information to the mathematics and science advisory panels created under RCW 28A.305.219, as appropriate, and seek the advice of the appropriate panel regarding the curricula that shall be included in the recommendations.

(f) The recommended curricula under this subsection (7) shall align with the revised essential academic learning requirements and grade level expectations. In addition to the recommended basic curricula, appropriate diagnostic and supplemental materials shall be identified as necessary to support each curricula.

(g) Subject to funds appropriated for this purpose and availability of the curricula, at least one of the curricula in each grade span and in each of mathematics and science shall be available to schools and parents online at no cost to the school or parent.

(8) By December 1, 2007, the state board of education shall revise the high school graduation requirements under RCW 28A.230.090 to include a minimum of three credits of mathematics, one of which may be a career and technical course equivalent in mathematics, and prescribe the mathematics content in the three required credits.

(9) Nothing in this section requires a school district to use one of the recommended curricula under subsection (7) of this section. However, the statewide accountability plan adopted by the state board of education under RCW 28A.305.130 shall recommend conditions under which school districts should be required to use one of the recommended curricula. The plan shall also describe the conditions for exception to the curriculum requirement, such as the use of integrated academic and career and technical education curriculum. Required use of the recommended curricula as an intervention strategy must be authorized by the legislature as required by RCW 28A.305.130(4)(e) before implementation.

(10) The superintendent of public instruction shall conduct a comprehensive survey of the mathematics curricula being used by school districts at all grade levels and the textbook and curriculum purchasing cycle of the districts and report the

results of the survey to the education committees of the legislature by November 15, 2008.

NEW SECTION. Sec. 3. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Senators McAuliffe and King spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators McAuliffe, Tom and King to Second Substitute House Bill No. 2598.

The motion by Senator McAuliffe carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "curriculum;" strike the remainder of the title and insert "amending RCW 28A.305.215; and creating new sections."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 2598 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2598 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2598 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SECOND SUBSTITUTE HOUSE BILL NO. 2598 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 8, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. and asks Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

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MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 2714.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 2714.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Second Substitute House Bill No. 2714 by voice vote.

MOTION

On motion of Senator Hargrove, the rules were suspended and Second Substitute House Bill No. 2714 was returned to second reading for the purposes of amendment.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2714, by House Committee on Appropriations (originally sponsored by Representatives Loomis, Hurst, Lantz, Upthegrove, Conway, Simpson, VanDeWege and Kelley)

Changing provisions concerning registration of sex offenders and kidnapping offenders. Revised for 2nd Substitute. Making failure to register as a sex offender a class B felony.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.44.130 and 2006 c 129 s 2, 2006 c 128 s 2, 2006 c 127 s 2, and 2006 c 126 s 2 are each reenacted and amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection:

(i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within ten days of enrolling or prior to arriving at the school to attend classes, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

(iii) Who gains employment at a public or private institution of higher education shall, within ten days of accepting employment or by the first business day after commencing work at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's employment by the institution; or

(iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within ten days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

(c) Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, or a public or private school regulated under Title 28A RCW or chapter 72.40 RCW on September 1, 2006, must notify the county sheriff immediately.

(d) The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(e)(i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every teacher of any student required to register under (a) of this subsection and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.550 upon the public safety department of any public or private school or institution of higher education.

(3)(a) The person shall provide the following information when registering: (i) Name; (ii) complete residential address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) Any person who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay.

(4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of

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youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) **OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION.** Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) **OFFENDERS UNDER FEDERAL JURISDICTION.** Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not

in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) **OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED.** Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) **OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS.** Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) **OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY.** Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state

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department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

(vii) OFFENDERS WHO LACK A FIXED RESIDENCE.

Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than twenty-four hours after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within ten days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ten days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (11) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send signed written notice of the change of address to the county sheriff within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send signed written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send signed written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward

the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) All offenders who are required to register pursuant to this section who have a fixed residence and who are designated as a risk level II or III must report, in person, every ninety days to the sheriff of the county where he or she is registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. An offender who complies with the ninety-day reporting requirement with no violations for a period of at least five years in the community may petition the superior court to be relieved of the duty to report every ninety days. The petition shall be made to the superior court in the county where the offender resides or reports under this section. The prosecuting attorney of the county shall be named and served as respondent in any such petition. The court shall relieve the petitioner of the duty to report if the petitioner shows, by a preponderance of the evidence, that the petitioner has complied with the reporting requirement for a period of at least five years and that the offender has not been convicted of a criminal violation of this section for a period of at least five years, and the court determines that the reporting no longer serves a public safety purpose. Failure to report, as specified, constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

(8) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and

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to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

(9) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints. A photograph may be taken at any time to update an individual's file.

(10) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means:

(i) Any offense defined as a sex offense by RCW 9.94A.030;

(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and

(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(b) "Kidnapping offense" means: (i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent; (ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection (10)(b); and (iii) any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a kidnapping offense under this subsection (10)(b).

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

(11)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class ((€)) B felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (10)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (10)(a) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(12)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony

kidnapping offense as defined in subsection (10)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection (10)(b) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(13) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

Sec. 2. RCW 9.94A.030 and 2006 c 139 s 5, 2006 c 124 s 1, 2006 c 122 s 7, 2006 c 73 s 5, and 2005 c 436 s 1 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the community subject to controls placed on the offender's movement and activities by the department. For offenders placed on community custody for crimes committed on or after July 1, 2000, the department shall assess the offender's risk of reoffense and may establish and modify conditions of community custody, in addition to those imposed by the court, based upon the risk to community safety.

(6) "Community custody range" means the minimum and maximum period of community custody included as part of a sentence under RCW 9.94A.715, as established by the commission or the legislature under RCW 9.94A.850, for crimes committed on or after July 1, 2000.

(7) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(8) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(9) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(10) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical

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dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(11) "Confinement" means total or partial confinement.

(12) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(13) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(14) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for

the option under RCW 9.94A.660.

(21) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(22) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(23) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(24) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(25) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(26) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(27) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(28) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(29) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

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- (e) Controlled substance homicide;
 - (f) Extortion in the first degree;
 - (g) Incest when committed against a child under age fourteen;
 - (h) Indecent liberties;
 - (i) Kidnapping in the second degree;
 - (j) Leading organized crime;
 - (k) Manslaughter in the first degree;
 - (l) Manslaughter in the second degree;
 - (m) Promoting prostitution in the first degree;
 - (n) Rape in the third degree;
 - (o) Robbery in the second degree;
 - (p) Sexual exploitation;
 - (q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;
 - (r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;
 - (s) Any other class B felony offense with a finding of sexual motivation;
 - (t) Any other felony with a deadly weapon verdict under RCW 9.94A.602;
 - (u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;
 - (v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
 - (ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.
- (30) "Nonviolent offense" means an offense which is not a violent offense.
- (31) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.
- (32) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.
- (33) "Persistent offender" is an offender who:
- (a)(i) Has been convicted in this state of any felony considered a most serious offense; and
 - (ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered

most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (33)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(34) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(35) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

(36) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(37) "Public school" has the same meaning as in RCW 28A.150.010.

(38) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(39) "Risk assessment" means the application of an objective instrument supported by research and adopted by the department for the purpose of assessing an offender's risk of reoffense, taking into consideration the nature of the harm done by the offender, place and circumstances of the offender related to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations.

(40) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony

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actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(41) "Serious violent offense" is a subcategory of violent offense and means:

- (a)(i) Murder in the first degree;
- (ii) Homicide by abuse;
- (iii) Murder in the second degree;
- (iv) Manslaughter in the first degree;
- (v) Assault in the first degree;
- (vi) Kidnapping in the first degree;
- (vii) Rape in the first degree;
- (viii) Assault of a child in the first degree; or
- (ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(42) "Sex offense" means:

- (a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130((++)) (12);
- (ii) A violation of RCW 9A.64.020;
- (iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or
- (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(43) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(44) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(45) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(46) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(47) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(48) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(49) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(50) "Violent offense" means:

- (a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(51) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(52) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(53) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 3. RCW 13.40.0357 and 2007 c 199 s 11 are each amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITIO N OFFENSE CATEGORY DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
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Arson and Malicious Mischief

A	Arson 1 (9A.48.020)	B +
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090(2) (a) and (c))	E

E	Malicious Mischief 3 (9A.48.090(2)(b))	E	C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
E	Tampering with Fire Alarm Apparatus (9.40.100)	E	C +	Sale of Controlled Substance for Profit (69.50.410)	C +
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E	E	Unlawful Inhalation (9.47A.020)	E
A	Possession of Incendiary Device (9.40.120)	B +	B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
Assault and Other Crimes Involving Physical Harm					
A	Assault 1 (9A.36.011)	B +	C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
B +	Assault 2 (9A.36.021)	C +			
C +	Assault 3 (9A.36.031)	D +	C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C
D +	Assault 4 (9A.36.041)	E			
B +	Drive-By Shooting (9A.36.045)	C +	C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
D +	Reckless Endangerment (9A.36.050)	E			
C +	Promoting Suicide Attempt (9A.36.060)	D +			
D +	Coercion (9A.36.070)	E			
C +	Custodial Assault (9A.36.100)	D +	B	Firearms and Weapons Theft of Firearm (9A.56.300)	C
Burglary and Trespass					
B +	Burglary 1 (9A.52.020)	C +	B	Possession of Stolen Firearm (9A.56.310)	C
B	Residential Burglary (9A.52.025)	C	E	Carrying Loaded Pistol Without Permit (9.41.050)	E
B	Burglary 2 (9A.52.030)	C	C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(iii))	C
D	Burglary Tools (Possession of) (9A.52.060)	E	D +	Possession of Dangerous Weapon (9.41.250)	E
D	Criminal Trespass 1 (9A.52.070)	E	D	Intimidating Another Person by use of Weapon (9.41.270)	E
E	Criminal Trespass 2 (9A.52.080)	E			
C	Mineral Trespass (78.44.330)	C			
C	Vehicle Prowling 1 (9A.52.095)	D	A +	Homicide Murder 1 (9A.32.030)	A
D	Vehicle Prowling 2 (9A.52.100)	E	A +	Murder 2 (9A.32.050)	B +
Drugs					
E	Possession/Consumption of Alcohol (66.44.270)	E	B +	Manslaughter 1 (9A.32.060)	C +
C	Illegally Obtaining Legend Drug (69.41.020)	D	C +	Manslaughter 2 (9A.32.070)	D +
C +	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D +	B +	Vehicular Homicide (46.61.520)	C +
E	Possession of Legend Drug (69.41.030(2)(b))	E			
B +	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B +			
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C			
E	Possession of Marihuana <40 grams (69.50.4014)	E			
Kidnapping					
			A	Kidnap 1 (9A.40.020)	B +
			B +	Kidnap 2 (9A.40.030)	C +
			C +	Unlawful Imprisonment (9A.40.040)	D +
Obstructing Governmental Operation					
			D	Obstructing a Law Enforcement Officer (9A.76.020)	E
			E	Resisting Arrest (9A.76.040)	E
			B	Introducing Contraband 1 (9A.76.140)	C
			C	Introducing Contraband 2 (9A.76.150)	D
			E	Introducing Contraband 3 (9A.76.160)	E

B + Intimidating a Public Servant (9A.76.180)

C +

B Possession of a Stolen Vehicle (9A.56.068)

C

B + Intimidating a Witness (9A.72.110)

C +

B Possession of Stolen Property 1 (9A.56.150)

C

Public Disturbance

C + Riot with Weapon (9A.84.010(2)(b))

D +

C Possession of Stolen Property 2 (9A.56.160)

D

D + Riot Without Weapon (9A.84.010(2)(a))

E

D Possession of Stolen Property 3 (9A.56.170)

E

E Failure to Disperse (9A.84.020)

E

B Taking Motor Vehicle Without Permission 1 (9A.56.070)

C

E Disorderly Conduct (9A.84.030)

E

Sex Crimes

A Rape 1 (9A.44.040)

B +

C Taking Motor Vehicle Without Permission 2 (9A.56.075)

D

A- Rape 2 (9A.44.050)

B +

B Theft of a Motor Vehicle (9A.56.065)

C

C + Rape 3 (9A.44.060)

D +

Motor Vehicle Related Crimes

A- Rape of a Child 1 (9A.44.073)

B +

E Driving Without a License (46.20.005)

E

B + Rape of a Child 2 (9A.44.076)

C +

B + Hit and Run - Death (46.52.020(4)(a))

C +

B Incest 1 (9A.64.020(1))

C

C Hit and Run - Injury (46.52.020(4)(b))

D

C Incest 2 (9A.64.020(2))

D

D Hit and Run-Attended (46.52.020(5))

E

D + Indecent Exposure (Victim <14) (9A.88.010)

E

E Hit and Run-Unattended (46.52.010)

E

E Indecent Exposure (Victim 14 or over) (9A.88.010)

E

C Vehicular Assault (46.61.522)

D

B + Promoting Prostitution 1 (9A.88.070)

C +

C Attempting to Elude Pursuing Police Vehicle (46.61.024)

D

C + Promoting Prostitution 2 (9A.88.080)

D +

E Reckless Driving (46.61.500)

E

E O & A (Prostitution) (9A.88.030)

E

D Driving While Under the Influence (46.61.502 and 46.61.504)

E

B + Indecent Liberties (9A.44.100)

C +

B + Felony Driving While Under the Influence (46.61.502(6))

B

A- Child Molestation 1 (9A.44.083)

B +

B + Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))

B

B Child Molestation 2 (9A.44.086)

C +

C Failure to Register as a Sex Offender (9A.44.130)

D

Other

Theft, Robbery, Extortion, and Forgery

B Theft 1 (9A.56.030)

C

B Animal Cruelty 1 (16.52.205)

C

C Theft 2 (9A.56.040)

D

B Bomb Threat (9.61.160)

C

D Theft 3 (9A.56.050)

E

C Escape 1¹ (9A.76.110)

C

B Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)

C

C Escape 2¹ (9A.76.120)

C

C Forgery (9A.60.020)

D

D Escape 3 (9A.76.130)

E

A Robbery 1 (9A.56.200)

B +

E Obscene, Harassing, Etc., Phone Calls (9.61.230)

E

B + Robbery 2 (9A.56.210)

C +

A Other Offense Equivalent to an Adult Class A Felony

B +

B + Extortion 1 (9A.56.120)

C +

B Other Offense Equivalent to an Adult Class B Felony

C

C + Extortion 2 (9A.56.130)

D +

C Other Offense Equivalent to an Adult Class C Felony

D

C Identity Theft 1 (9.35.020(2))

D

D Other Offense Equivalent to an Adult Gross Misdemeanor

E

D Identity Theft 2 (9.35.020(3))

E

E Other Offense Equivalent to an Adult Misdemeanor

E

D Improperly Obtaining Financial Information (9.35.010)

E

V Violation of Order of Restitution,
Community Supervision, or Confinement
(13.40.200)² V

¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12 month period - 4 weeks confinement

2nd escape or attempted escape during 12 month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

²If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, D, or RCW 13.40.167.

**OPTION A
JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE**

	A +	180 WEEKS TO AGE 21 YEARS				
	A	103 WEEKS TO 129 WEEKS				
	A-	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
		EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS				
Current Offense Category	B +	15-36 WEEKS		52-65 WEEKS	80-100 WEEKS	103-129 WEEKS
	B	LOCAL SANCTIONS (LS)		15-36 WEEKS		52-65 WEEKS
	C +	LS			15-36 WEEKS	
	C	LS			15-36 WEEKS	

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NEW SECTION. Sec. 5. Sections 1 through 3 of this act take effect ninety days after adjournment sine die of the 2010 legislative session."

Senator Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Second Substitute House Bill No. 2714.

The motion by Senator Hargrove carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "felony," strike the remainder of the title and insert "amending RCW 13.40.0357; reenacting and amending RCW 9A.44.130 and 9.94A.030; creating a new section; prescribing penalties; and providing an effective date."

MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 2714 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2714 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2714 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SECOND SUBSTITUTE HOUSE BILL NO. 2714 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 8, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to HOUSE BILL NO. 2791 and asks Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Tom moved that the Senate recede from its position in the Senate amendment(s) to House Bill No. 2791.

The President declared the question before the Senate to be

motion by Senator Tom that the Senate recede from its position in the Senate amendment(s) to House Bill No. 2791.

The motion by Senator Tom carried and the Senate receded from its position in the Senate amendment(s) to House Bill No. 2791 by voice vote.

MOTION

On motion of Senator Tom, the rules were suspended and House Bill No. 2791 was returned to second reading for the purposes of amendment.

SECOND READING

HOUSE BILL NO. 2791, by Representatives Lantz, Rodne and Kelley

Concerning distressed property conveyances. (REVISED FOR PASSED LEGISLATURE: Concerning distressed home conveyances.)

The measure was read the second time.

MOTION

Senator Tom moved that the following striking amendment by Senator Tom and others be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 61.34.020 and 1988 c 33 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) (~~"Pattern of equity skimming" means engaging in a least three acts of equity skimming within any three-year period, with at least one of the acts occurring after June 9, 1988.~~

~~(2) "Dwelling" means a single, duplex, triplex, or four-unit family residential building.~~

~~(3) "Person" includes any natural person, corporation, joint stock association, or unincorporated association.~~

~~(4)) An "act of equity skimming" occurs when:~~

(a)(i) A person purchases a dwelling with the representation that the purchaser will pay for the dwelling by assuming the obligation to make payments on existing mortgages, deeds of trust, or real estate contracts secured by and pertaining to the dwelling, or by representing that such obligation will be assumed; and

(ii) The person fails to make payments on such mortgages, deeds of trust, or real estate contracts as the payments become due, within two years subsequent to the purchase; and

(iii) The person diverts value from the dwelling by either (A) applying or authorizing the application of rents from the dwelling for the person's own benefit or use, or (B) obtaining anything of value from the sale or lease with option to purchase of the dwelling for the person's own benefit or use, or (C) removing or obtaining appliances, fixtures, furnishings, or parts of such dwellings or appurtenances for the person's own benefit or use without replacing the removed items with items of equal or greater value; or

(b)(i) The person purchases a dwelling in a transaction in which all or part of the purchase price is financed by the seller and is (A) secured by a lien which is inferior in priority or subordinated to a lien placed on the dwelling by the purchaser, or (B) secured by a lien on other real or personal property, or (C) without any security; and

(ii) The person obtains a superior priority loan which either (A) is secured by a lien on the dwelling which is superior in priority to the lien of the seller, but not including a bona fide assumption by the purchaser of a loan existing prior to the time of purchase, or (B) creating any lien or encumbrance on the dwelling when the seller does not hold a lien on the dwelling; and

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(iii) The person fails to make payments or defaults on the superior priority loan within two years subsequent to the purchase; and

(iv) The person diverts value from the dwelling by applying or authorizing any part of the proceeds from such superior priority loan for the person's own benefit or use.

(2) "Distressed home" means either:

(a) A dwelling that is in danger of foreclosure or at risk of loss due to nonpayment of taxes; or

(b) A dwelling that is in danger of foreclosure or that is in the process of being foreclosed due to a default under the terms of a mortgage.

(3) "Distressed home consultant" means a person who:

(a) Solicits or contacts a distressed homeowner in writing, in person, or through any electronic or telecommunications medium and makes a representation or offer to perform any service that the person represents will:

(i) Stop, enjoin, delay, void, set aside, annul, stay, or postpone a foreclosure sale;

(ii) Obtain forbearance from any servicer, beneficiary, or mortgagee;

(iii) Assist the distressed homeowner to exercise a right of reinstatement provided in the loan documents or to refinance a loan that is in foreclosure or is in danger of foreclosure;

(iv) Obtain an extension of the period within which the distressed homeowner may reinstate the distressed homeowner's obligation or extend the deadline to object to a ratification;

(v) Obtain a waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a distressed home or contained in the mortgage;

(vi) Assist the distressed homeowner to obtain a loan or advance of funds;

(vii) Save the distressed homeowner's residence from foreclosure;

(viii) Avoid or ameliorate the impairment of the distressed homeowner's credit resulting from the recording of a notice of trustee sale, the filing of a petition to foreclose, or the conduct of a foreclosure sale;

(ix) Purchase or obtain an option to purchase the distressed homeowner's residence within twenty days of an advertised or docketed foreclosure sale;

(x) Arrange for the distressed homeowner to become a lessee or tenant entitled to continue to reside in the distressed homeowner's residence;

(xi) Arrange for the distressed homeowner to have an option to repurchase the distressed homeowner's residence; or

(xii) Engage in any documentation, grant, conveyance, sale, lease, trust, or gift by which the distressed homeowner clogs the distressed homeowner's equity of redemption in the distressed homeowner's residence; or

(b) Systematically contacts owners of property that court records, newspaper advertisements, or any other source demonstrate are in foreclosure or are in danger of foreclosure.

"Distressed home consultant" does not mean a financial institution, a nonprofit credit counseling service, a licensed attorney, or a person subject to chapter 19.148 RCW. "Distressed home consultant" does not include a licensed mortgage broker who, pursuant to lawful activities under chapter 19.146 RCW, procures a nonpurchase mortgage loan for the distressed homeowner from a financial institution.

(4) "Distressed home consulting transaction" means an agreement between a distressed homeowner and a distressed home consultant in which the distressed home consultant represents or offers to perform any of the services enumerated in subsection (3)(a) of this section.

(5) "Distressed home conveyance" means a transaction in which:

(a) A distressed homeowner transfers an interest in the distressed home to a distressed home purchaser;

(b) The distressed home purchaser allows the distressed homeowner to occupy the distressed home; and

(c) The distressed home purchaser or a person acting in participation with the distressed home purchaser conveys or promises to convey the distressed home to the distressed homeowner, provides the distressed homeowner with an option

to purchase the distressed home at a later date, or promises the distressed homeowner an interest in, or portion of, the proceeds of any resale of the distressed home.

(6) "Distressed home purchaser" means any person who acquires an interest in a distressed home under a distressed home conveyance. "Distressed home purchaser" includes a person who acts in joint venture or joint enterprise with one or more distressed home purchasers in a distressed home conveyance. A financial institution is not a distressed home purchaser.

(7) "Distressed homeowner" means an owner of a distressed home.

(8) "Dwelling" means a single, duplex, triplex, or four-unit family residential building.

(9) "Financial institution" means (a) any bank or trust company, mutual savings bank, savings and loan association, credit union, or a lender making federally related mortgage loans, (b) a holder in the business of acquiring federally related mortgage loans as defined in the real estate settlement procedures act (RESPA) (12 U.S.C. Sec. 2602), insurance company, insurance producer, title insurance company, escrow company, or lender subject to auditing by the federal national mortgage association or the federal home loan mortgage corporation, which is organized or doing business pursuant to the laws of any state, federal law, or the laws of a foreign country, if also authorized to conduct business in Washington state pursuant to the laws of this state or federal law, (c) any affiliate or subsidiary of any of the entities listed in (a) or (b) of this subsection, or (d) an employee or agent acting on behalf of any of the entities listed in (a) or (b) of this subsection. "Financial institution" also means a licensee under chapter 31.04 RCW, provided that the licensee does not include a licensed mortgage broker, unless the mortgage broker is engaged in lawful activities under chapter 19.146 RCW and procures a nonpurchase mortgage loan for the distressed homeowner from a financial institution.

(10) "Homeowner" means a person who owns and occupies a dwelling as his or her primary residence, whether or not his or her ownership interest is encumbered by a mortgage, deed of trust, or other lien.

(11) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold, the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed home consulting transaction.

(12) "Mortgage" means a mortgage, mortgage deed, deed of trust, security agreement, or other instrument securing a mortgage loan and constituting a lien on or security interest in housing.

(13) "Nonprofit credit counseling service" means a nonprofit organization described under section 501(c)(3) of the internal revenue code, or similar successor provisions, that is licensed or certified by any federal, state, or local agency.

(14) "Pattern of equity skimming" means engaging in at least three acts of equity skimming within any three-year period, with at least one of the acts occurring after June 9, 1988.

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(15) "Person" includes any natural person, corporation, joint stock association, or unincorporated association.

(16) "Resale" means a bona fide market sale of the distressed home subject to the distressed home conveyance by the distressed home purchaser to an unaffiliated third party.

(17) "Resale price" means the gross sale price of the distressed home on resale.

NEW SECTION. Sec. 2. (1) A distressed home consulting transaction must:

(a) Be in writing in at least twelve-point font;

(b) Be in the same language as principally used by the distressed home consultant to describe his or her services to the distressed homeowner. If the agreement is written in a language other than English, the distressed home consultant shall cause the agreement to be translated into English and shall deliver copies of both the original and English language versions to the distressed homeowner at the time of execution and shall keep copies of both versions on file in accordance with subsection (2) of this section. Any ambiguities or inconsistencies between the English language and the original language versions of the written agreement must be strictly construed in favor of the distressed homeowner;

(c) Fully disclose the exact nature of the distressed home consulting services to be provided, including any distressed home conveyance that may be involved and the total amount and terms of any compensation to be received by the distressed home consultant or anyone working in association with the distressed home consultant;

(d) Be dated and signed by the distressed homeowner and the distressed home consultant;

(e) Contain the complete legal name, address, telephone number, fax number, e-mail address, and internet address if any, of the distressed home consultant, and if the distressed home consultant is serving as an agent for any other person, the complete legal name, address, telephone number, fax number, e-mail address, and internet address if any, of the principal; and

(f) Contain the following notice, which must be initialed by the distressed homeowner, in bold face type and in at least fourteen-point font:

"NOTICE REQUIRED BY WASHINGTON LAW

THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT IN THE LOSS OF YOUR HOME.

. . . Name of distressed home consultant . . . or anyone working for him or her CANNOT guarantee you that he or she will be able to refinance your home or arrange for you to keep your home. Continue making mortgage payments until refinancing, if applicable, is approved. You should consult with an attorney before signing this contract.

If you sign a promissory note, lien, mortgage, deed of trust, or deed, you could lose your home and be unable to get it back."

(2) At the time of execution, the distressed home consultant shall provide the distressed homeowner with a copy of the written agreement, and the distressed home consultant shall keep a separate copy of the written agreement on file for at least five years following the completion or other termination of the agreement.

(3) This section does not relieve any duty or obligation imposed upon a distressed home consultant by any other law including, but not limited to, the duties of a credit service organization under chapter 19.134 RCW or a person required to be licensed under chapter 19.146 RCW.

NEW SECTION. Sec. 3. A distressed home consultant has a fiduciary relationship with the distressed homeowner, and each distressed home consultant is subject to all requirements for fiduciaries otherwise applicable under state law. A distressed home consultant's fiduciary duties include, but are not limited to, the following:

(1) To act in the distressed homeowner's best interest and in utmost good faith toward the distressed homeowner, and not compromise a distressed homeowner's right or interest in favor of another's right or interest, including a right or interest of the distressed home consultant;

(2) To disclose to the distressed homeowner all material facts of which the distressed home consultant has knowledge that might reasonably affect the distressed homeowner's rights, interests, or ability to receive the distressed homeowner's intended benefit from the residential mortgage loan;

(3) To use reasonable care in performing his or her duties; and

(4) To provide an accounting to the distressed homeowner for all money and property received from the distressed homeowner.

NEW SECTION. Sec. 4. (1) A person may not induce or attempt to induce a distressed homeowner to waive his or her rights under this chapter.

(2) Any waiver by a homeowner of the provisions of this chapter is void and unenforceable as contrary to public policy.

NEW SECTION. Sec. 5. A distressed home purchaser shall enter into a distressed home reconveyance in the form of a written contract. The contract must be written in at least twelve-point boldface type in the same language principally used by the distressed home purchaser and distressed homeowner to negotiate the sale of the distressed home, and must be fully completed, signed, and dated by the distressed homeowner and distressed home purchaser before the execution of any instrument of conveyance of the distressed home.

NEW SECTION. Sec. 6. The contract required in section 5 of this act must contain the entire agreement of the parties and must include the following:

(1) The name, business address, and telephone number of the distressed home purchaser;

(2) The address of the distressed home;

(3) The total consideration to be provided by the distressed home purchaser in connection with or incident to the sale;

(4) A complete description of the terms of payment or other consideration including, but not limited to, any services of any nature that the distressed home purchaser represents that he or she will perform for the distressed homeowner before or after the sale;

(5) The time at which possession is to be transferred to the distressed home purchaser;

(6) A complete description of the terms of any related agreement designed to allow the distressed homeowner to remain in the home, such as a rental agreement, repurchase agreement, or lease with option to buy;

(7) A complete description of the interest, if any, the distressed homeowner maintains in the proceeds of, or consideration to be paid upon, the resale of the distressed home;

(8) A notice of cancellation as provided in section 8 of this act; and

(9) The following notice in at least fourteen-point boldface type if the contract is printed, or in capital letters if the contract is typed, and completed with the name of the distressed home purchaser, immediately above the statement required in section 8 of this act;

"NOTICE REQUIRED BY WASHINGTON LAW

Until your right to cancel this contract has ended, (Name) or anyone working for (Name) CANNOT ask you to sign or have you sign any deed or any other document."

The contract required by this section survives delivery of any instrument of conveyance of the distressed home and has no effect on persons other than the parties to the contract.

NEW SECTION. Sec. 7. (1) In addition to any other right of rescission, a distressed homeowner has the right to cancel any contract with a distressed home purchaser until midnight of the fifth business day following the day on which the distressed homeowner signs a contract that complies with this chapter or until 8:00 a.m. on the last day of the period during which the distressed homeowner has a right of redemption, whichever occurs first.

(2) Cancellation occurs when the distressed homeowner delivers to the distressed home purchaser, by any means, a written notice of cancellation to the address specified in the contract.

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(3) A notice of cancellation provided by the distressed homeowner is not required to take the particular form as provided with the contract.

(4) Within ten days following the receipt of a notice of cancellation under this section, the distressed home purchaser shall return without condition any original contract and any other documents signed by the distressed homeowner.

NEW SECTION. Sec. 8. (1) The contract required in section 5 of this act must contain, in immediate proximity to the space reserved for the distressed homeowner's signature, the following conspicuous statement in at least fourteen-point boldface type if the contract is printed, or in capital letters if the contract is typed:

"You may cancel this contract for the sale of your house without any penalty or obligation at any time before

.....
(Date and time of day)

See the attached notice of cancellation form for an explanation of this right."

The distressed home purchaser shall accurately enter the date and time of day on which the cancellation right ends.

(2) The contract must be accompanied by a completed form in duplicate, captioned "NOTICE OF CANCELLATION" in twelve-point boldface type if the contract is printed, or in capital letters if the contract is typed, followed by a space in which the distressed home purchaser shall enter the date on which the distressed homeowner executes any contract. This form must be attached to the contract, must be easily detachable, and must contain in at least twelve-point type if the contract is printed, or in capital letters if the contract is typed, the following statement written in the same language as used in the contract:

"NOTICE OF CANCELLATION

.....
(Enter date contract signed)

You may cancel this contract for the sale of your house, without any penalty or obligation, at any time before

.....
(Enter date and time of day)

To cancel this transaction, personally deliver a signed and dated copy of this cancellation notice to

.....
(Name of purchaser)

at

.....
(Street address of purchaser's place of business)

NOT LATER THAN

.....
(Enter date and time of day)

I hereby cancel this transaction.

.....(Date)

.....
(Seller's signature)"

(3) The distressed home purchaser shall provide the distressed homeowner with a copy of the contract and the attached notice of cancellation at the time the contract is executed by all parties.

(4) The five-business-day period during which the distressed homeowner may cancel the contract must not begin to run until all parties to the contract have executed the contract and the distressed home purchaser has complied with this section.

NEW SECTION. Sec. 9. (1) Any provision in a contract that attempts or purports to require arbitration of any dispute arising under this chapter is void at the option of the distressed homeowner.

(2) This section applies to any contract entered into on or after the effective date of this act.

NEW SECTION. Sec. 10. A distressed home purchaser shall not:

(1) Enter into, or attempt to enter into, a distressed home conveyance with a distressed homeowner unless the distressed home purchaser verifies and can demonstrate that the distressed homeowner has a reasonable ability to pay for the subsequent conveyance of an interest back to the distressed homeowner. In the case of a lease with an option to purchase, payment ability

also includes the reasonable ability to make the lease payments and purchase the property within the term of the option to purchase. An evaluation of a distressed homeowner's reasonable ability to pay includes debt to income ratios, fair market value of the distressed home, and the distressed homeowner's payment and credit history. There is a rebuttable presumption that the distressed home purchaser has not verified a distressed homeowner's reasonable ability to pay if the distressed home purchaser has not obtained documentation of assets, liabilities, and income, other than an undocumented statement, of the distressed homeowner;

(2) Fail to either:

(a) Ensure that title to the distressed home has been reconveyed to the distressed homeowner; or

(b) Make payment to the distressed homeowner so that the distressed homeowner has received consideration in an amount of at least eighty- two percent of the fair market value of the property as of the date of the eviction or voluntary relinquishment of possession of the distressed home by the distressed homeowner. For the purposes of this subsection (2)(b), the following applies:

(i) There is a rebuttable presumption that an appraisal by a person licensed or certified by an agency of the federal government or this state to appraise real estate constitutes the fair market value of the distressed home;

(ii) "Consideration" means any payment or thing of value provided to the distressed homeowner, including unpaid rent owed by the distressed homeowner before the date of eviction or voluntary relinquishment of the distressed home, reasonable costs paid to independent third parties necessary to complete the distressed home conveyance transaction, the payment of money to satisfy a debt or legal obligation of the distressed homeowner, or the reasonable cost of repairs for damage to the distressed home caused by the distressed homeowner. "Consideration" does not include amounts imputed as a down payment or fee to the distressed home purchaser or a person acting in participation with the distressed home purchaser;

(3) Enter into repurchase or lease terms as part of the distressed home conveyance that are unfair or commercially unreasonable, or engage in any other unfair or deceptive acts or practices;

(4) Represent, directly or indirectly, that (a) the distressed home purchaser is acting as an advisor or consultant, (b) the distressed home purchaser is acting on behalf of or in the interests of the distressed homeowner, or (c) the distressed home purchaser is assisting the distressed homeowner to save the distressed home, buy time, or use other substantially similar language;

(5) Misrepresent the distressed home purchaser's status as to licensure or certification;

(6) Perform any of the following until after the time during which the distressed homeowner may cancel the transaction has expired:

(a) Accept from any distressed homeowner an execution of, or induce any distressed homeowner to execute, any instrument of conveyance of any interest in the distressed home;

(b) Record with the county auditor any document, including any instrument of conveyance, signed by the distressed homeowner; or

(c) Transfer or encumber or purport to transfer or encumber any interest in the distressed home;

(7) Fail to reconvey title to the distressed home when the terms of the distressed home conveyance contract have been fulfilled;

(8) Enter into a distressed home conveyance where any party to the transaction is represented by a power of attorney;

(9) Fail to extinguish or assume all liens encumbering the distressed home immediately following the conveyance of the distressed home;

(10) Fail to close a distressed home conveyance in person before an independent third party who is authorized to conduct real estate closings within the state.

Sec. 11. RCW 61.34.040 and 1988 c 33 s 3 are each amended to read as follows:

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(1) In addition to the criminal penalties provided in RCW 61.34.030, the legislature finds ~~((and declares))~~ that ~~((equity skimming substantially affects))~~ the practices covered by this chapter are matters vitally affecting the public interest~~((The commission by any person of an act of equity skimming or a pattern of equity skimming is an unfair or deceptive act or practice and unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020))~~ for the purpose of applying chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair method of competition for the purpose of applying chapter 19.86 RCW.

(2) In a private right of action under chapter 19.86 RCW for a violation of this chapter, the court may double or triple the award of damages pursuant to RCW 19.86.090, subject to the statutory limit. If, however, the court determines that the defendant acted in bad faith, the limit for doubling or tripling the award of damages may be increased, but shall not exceed one hundred thousand dollars. Any claim for damages brought under this chapter must be commenced within four years after the date of the alleged violation.

(3) The remedies provided in this chapter are cumulative and do not restrict any remedy that is otherwise available. The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law. An action under this chapter shall not affect the rights in the distressed home held by a distressed home purchaser for value under this chapter or other applicable law.

Sec. 12. RCW 59.18.030 and 1998 c 276 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Distressed home" has the same meaning as in RCW 61.34.020.

(2) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(3) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(4) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single family residences and units of multiplexes, apartment buildings, and mobile homes.

~~((2))~~ (5) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed property conveyance.

(6) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the landlord.

~~((3))~~ (7) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(8) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business

trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

~~((4))~~ (9) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

~~((5))~~ (10) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

~~((6))~~ (11) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

~~((7))~~ (12) A "single family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

~~((8))~~ (13) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

~~((9))~~ (14) "Reasonable attorney's fees", where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

~~((10))~~ (15) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

~~((11))~~ (16) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

NEW SECTION. Sec. 13. A new section is added to chapter 59.18 RCW to read as follows:

In an unlawful detainer action involving property that was a distressed home:

(1) The plaintiff shall disclose to the court whether the defendant previously held title to the property that was a distressed home, and explain how the plaintiff came to acquire title;

(2) A defendant who previously held title to the property that was a distressed home shall not be required to escrow any money pending trial when a material question of fact exists as to whether the plaintiff acquired title from the defendant directly or indirectly through a distressed home conveyance;

(3) There must be both an automatic stay of the action and a consolidation of the action with a pending or subsequent quiet title action when a defendant claims that the plaintiff acquired title to the property through a distressed home conveyance.

NEW SECTION. Sec. 14. Sections 2 through 10 of this act are each added to chapter 61.34 RCW."

Senator Tom spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Tom and others to House Bill No. 2791.

The motion by Senator Tom carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "conveyances;" strike the remainder of the title and insert "amending RCW 61.34.020, 61.34.040, and 59.18.030; adding new sections to chapter 61.34

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RCW; adding a new section to chapter 59.18 RCW; and prescribing penalties."

MOTION

On motion of Senator Tom, the rules were suspended, House Bill No. 2791 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Tom spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2791 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2791 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 46

Voting nay: Senators Benton, Carrell and Stevens - 3

HOUSE BILL NO. 2791 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 10, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 2822 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 2822.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 2822.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Second Substitute House Bill No. 2822 by voice vote.

MOTION

On motion of Senator Hargrove, the rules were suspended and Second Substitute House Bill No. 2822 was returned to second reading for the purposes of amendment.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2822, by House Committee on Appropriations (originally sponsored by

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Representatives Kagi, Walsh, Lantz, Dickerson, Haler, Sullivan, Seaquist and Kenney)

Concerning the family and juvenile court improvement program.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 2.56 RCW to read as follows:

Subject to the availability of funds appropriated therefor, the family and juvenile court improvement grant program is created.

(1) The purpose of the program is to assist superior courts in improving their family and juvenile court systems, especially in dependency cases, with the goals of:

(a) Assuring a stable and well-trained judiciary in family and juvenile law providing consistency of judicial officers hearing all of the proceedings in a case involving one family, especially in dependency cases; and

(b) Ensuring judicial accountability in implementing specific principles and practices for family and juvenile court.

(2) The administrator for the courts shall develop and administer the program subject to requirements in section 2 of this act. As part of administering the program, the administrator for the courts shall define appropriate outcome measures, collect data, and gather information from courts receiving grants.

NEW SECTION. Sec. 2. A new section is added to chapter 2.56 RCW to read as follows:

(1) A superior court may apply for grants from the family and juvenile court improvement grant program by submitting a local improvement plan with the administrator for the courts. To be eligible for grant funds, a superior court's local improvement plan must meet the criteria developed by the administrator for the courts and approved by the board for judicial administration. The criteria must be consistent with the principles adopted for unified family courts. At a minimum, the criteria must require that the court's local improvement plan meet the following requirements:

(a) Commit to a chief judge assignment to the family and juvenile court for a minimum of two years;

(b) Implementation of the principle of one judicial team hearing all of the proceedings in a case involving one family, especially in dependency cases;

(c) Require court commissioners and judges assigned to family and juvenile court to receive a minimum of thirty hours specialized training in topics related to family and juvenile matters within six months of assuming duties in family and juvenile court. Where possible, courts should utilize local, statewide, and national training forums. A judicial officer's recorded educational history may be applied toward the thirty-hour requirement. The topics for training must include:

(i) Parentage;

(ii) Adoption;

(iii) Domestic relations;

(iv) Dependency and termination of parental rights;

(v) Child development;

(vi) The impact of child abuse and neglect;

(vii) Domestic violence;

(viii) Substance abuse;

(ix) Mental health;

(x) Juvenile status offenses;

(xi) Juvenile offenders;

(xii) Self-representation issues;

(xiii) Cultural competency;

(xiv) Roles of family and juvenile court judges and commissioners; and

(d) As part of the application for grant funds, submit a spending proposal detailing how the superior court would use the grant funds.

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(2) Courts receiving grant money must use the funds to improve and support family and juvenile court operations based on standards developed by the administrator for the courts and approved by the board for judicial administration. The standards may allow courts to use the funds to:

(a) Pay for family and juvenile court training of commissioners and judges or pay for pro tem commissioners and judges to assist the court while the commissioners and judges receive training;

(b) Increase judicial and nonjudicial staff, including administrative staff to improve case coordination and referrals in family and juvenile cases, guardian ad litem volunteers or court-appointed special advocates, security, and other staff;

(c) Improve the court facility to better meet the needs of children and families;

(d) Improve referral and treatment options for court participants, including enhancing court facilitator programs and family treatment court and increasing the availability of alternative dispute resolution;

(e) Enhance existing family and children support services funded by the courts and expand access to social service programs for families and children ordered by the court; and

(f) Improve or support family and juvenile court operations in any other way deemed appropriate by the administrator for the courts.

(3) The administrator for the courts shall allocate available grant moneys based upon the needs of the court as expressed in their local improvement plan.

(4) Money received by the superior court under this program must be used to supplement, not supplant, any other local, state, and federal funds for the court.

(5) Upon receipt of grant funds, the superior court shall submit to the administrator for the courts a spending plan detailing the use of funds. At the end of the fiscal year, the superior court shall submit to the administrator for the courts a financial report comparing the spending plan to actual expenditures. The administrator for the courts shall compile the financial reports and submit them to the appropriate committees of the legislature.

Sec. 3. RCW 2.56.030 and 2007 c 496 s 302 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of the chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Submit annually, as of February 1st, to the chief justice, a report of the activities of the administrator's office for the

preceding calendar year including activities related to courthouse security;

(10) Administer programs and standards for the training and education of judicial personnel;

(11) Examine the need for new superior court and district court judge positions under an objective workload analysis. The results of the objective workload analysis shall be reviewed by the board for judicial administration which shall make recommendations to the legislature. It is the intent of the legislature that an objective workload analysis become the basis for creating additional district and superior court positions, and recommendations should address that objective;

(12) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;

(13) Attend to such other matters as may be assigned by the supreme court of this state;

(14) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers and be updated yearly to reflect changes in statutes, court rules, or case law;

(15) Develop, in consultation with the entities set forth in RCW 2.56.150(3), a comprehensive statewide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 2008, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, domestic violence, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem;

(16) Develop a curriculum for a general understanding of crimes of malicious harassment, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of malicious harassment victims. This curriculum shall be made available to all superior court and court of appeals judges and to all justices of the supreme court;

(17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts statewide;

(18) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required;

(19) Develop a Washington family law handbook in accordance with RCW 2.56.180;

(20) Administer state funds for improving the operation of the courts and provide support for court coordinating councils, under the direction of the board for judicial administration;

(21) Administer the family and juvenile court improvement grant program;

(22)(a) Administer and distribute amounts appropriated from the equal justice subaccount under RCW 43.08.250(2) for district court judges' and qualifying elected municipal court judges' salary contributions. The administrator for the courts shall develop a distribution formula for these amounts that does not differentiate between district and elected municipal court judges.

(b) A city qualifies for state contribution of elected municipal court judges' salaries under (a) of this subsection if:

(i) The judge is serving in an elected position;

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(ii) The city has established by ordinance that a full-time judge is compensated at a rate equivalent to at least ninety-five percent, but not more than one hundred percent, of a district court judge salary or for a part-time judge on a pro rata basis the same equivalent; and

(iii) The city has certified to the office of the administrator for the courts that the conditions in (b)(i) and (ii) of this subsection have been met.

NEW SECTION. Sec. 4. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Senator Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Second Substitute House Bill No. 2822.

The motion by Senator Hargrove carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 2.56.030; adding new sections to chapter 2.56 RCW; and creating a new section."

MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 2822 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2822 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2822 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SECOND SUBSTITUTE HOUSE BILL NO. 2822 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 8, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 2858 and asks Senate to recede therefrom. and the same is herewith transmitted.

MOTION

Senator Sheldon moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 2858.

The President declared the question before the Senate to be motion by Senator Sheldon that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 2858.

The motion by Senator Sheldon carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 2858 by voice vote.

MOTION

On motion of Senator Sheldon, the rules were suspended and Substitute House Bill No. 2858 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2858, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Morrell, Warnick, Campbell, Hurst, Newhouse, O'Brien, Green, Kelley and Conway)

Expanding metal property provisions.

The measure was read the second time.

MOTION

Senator Sheldon moved that the following amendment by Senator Sheldon and Kline be adopted.

On page 8, beginning on line 6 of the amendment, strike all of section 8 and insert the following:

"Sec. 8. RCW 19.290.090 and 2007 c 377 s 9 are each amended to read as follows:

The provisions of this chapter do not apply to transactions conducted by the following:

(1) Motor vehicle dealers licensed under chapter 46.70 RCW;

(2) Metal from the components of vehicles acquired by vehicle wreckers or hulk haulers licensed under chapter 46.79 or 46.80 RCW, and acquired in accordance with those laws;

(3) Persons in the business of operating an automotive repair facility as defined under RCW 46.71.011; and

(4) Persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers."

Senators Sheldon and McCaslin spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Sheldon and Kline on page 8, line 6 to Substitute House Bill No. 2858.

The motion by Senator Sheldon carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Sheldon, the rules were suspended, Substitute House Bill No. 2858 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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Senator Sheldon spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2858 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2858 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 2858 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 8, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 3212 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate recede from its position on Substitute House Bill No. 3212 and pass the bill without the Senate amendment(s).

Senator McAuliffe spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate recede from its position on Substitute House Bill No. 3212 and pass the bill without Senate amendment(s).

The motion by Senator McAuliffe carried and the Senate receded from its position on Substitute House Bill No. 3212 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 3212 without the House amendments.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3212, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 3212, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 4:07 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Wednesday, March 12, 2008.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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